

COUNCIL MEETING

MARCH 11, 2015

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, March 11, 2015 at 9:04 a.m., after which the following members answered the call of the roll:

Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable KipuKai Kuali'i (*present 9:05 a.m.*)
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo

Excused: Honorable Gary L. Hooser
 Honorable Mason K. Chock (*present 1:48 p.m.*)

Council Chair Rapozo: Councilmember Kuali'i is in the building, and will be in very shortly. Next item, please.

APPROVAL OF AGENDA.

Councilmember Kagawa moved for approval of the agenda as circulated, seconded by Councilmember Yukimura.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: I want to make a disclosure and let the record reflect that I will be recusing myself from the Special Order Of The Day, agenda item C 2015-74.

Council Chair Rapozo: Thank you. The record will reflect that.

The motion to approve of the agenda as circulated was then put, and carried by a vote of 5:0:2 (*Councilmember Chock and Councilmember Hooser were excused and Councilmember Kuali'i was not present*).

(*Councilmember Kuali'i was noted as present.*)

MINUTES of the following meetings of the Council:

February 11, 2015 Public Hearing re: Bill No. 2573
February 11, 2015 Council Meeting
February 18, 2015 Special Council Meeting
February 25, 2015 Public Hearing re: Bill No. 2575, and Bill No. 2576

Councilmember Kagawa moved to approve the Minutes as circulated, seconded by Councilmember Kuali'i, and carried a vote of 6:0:1 (*Councilmember Chock and Councilmember Hooser were excused*).

(*Councilmember Kaneshiro was noted as recused from C 2015-74.*)

SPECIAL ORDER OF THE DAY:

C 2015-74 Communication (02/03/2015) from the County Engineer, recommending Council approval to renew a Right-of-Entry Agreement with Grove Farm Company, Inc., for gathering data to be used in the preparation of an Environmental Impact Statement (EIS) relating to the development of a new sanitary landfill and resource recovery park situated at Tax Map Key (TMK) No. (4) 3-8-02:001, Kalepa, Kaua'i, Hawai'i; and to indemnify Grove Farm Company, Inc., as stated in the agreement.

- Right-of-Entry Agreement

Councilmember Kagawa moved to approve C 2015-74, seconded by Councilmember Kagawa.

Council Chair Rapozo: Anyone in the audience wishing to testify on this matter? Seeing none, any discussion?

Councilmember Yukimura: Yes.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I think we sent some questions to the Department of Public Works, Solid Waste Division, and I would like to see what their answers were.

Council Chair Rapozo: If there are no objections, I will suspend the rules. Mr. Dill.

There being no objections, the rules were suspended.

LARRY DILL, P.E., County Engineer: Good morning, for the record, Larry Dill, County Engineer. Following up on our last meeting when this was an item on the agenda, we did receive some requests from Council. I saw those for the first time this past Thursday, I had a draft response given to me, I sent it back for some changes, and I got it on my desk. I apologize that I do not have that document with those responses for you today.

Council Chair Rapozo: Councilmember Yukimura, do you have specific questions? I do not have the list of questions with me, but if you have some questions that Mr. Dill may or may not be able to answer...if not, we can move this until later in the day.

Councilmember Yukimura: The questions sent over were: asking to identify the pros and cons of the sites identified for the new landfill and the resource recovery park on State and Grove Farm lands.

Mr. Dill: The response to that would be that in the early stages of the EIS (Environmental Impact Statement), all of the sites were reviewed, an exclusionary siting criteria analysis was performed, and there is a table with all of the pros and cons listed for all the sites in that study. That would be an attachment to the response.

Councilmember Yukimura: What is an inclusionary?

Mr. Dill: Exclusionary.

Councilmember Yukimura: What is that?

Mr. Dill: The consultant looked at the entire island and established certain criteria where a landfill and a resource recovery park could not be located and based on that criteria, most of the island was excluded based on the site criteria. It left us with eight (8) sites to consider.

Councilmember Yukimura: Once a site is finally selected, is it not the proper process to do a feasibility study to really zone into the details and practicality of the site. Was that done?

Mr. Dill: That was not done but in lieu of that, as part of the EIS, an alternative analysis is required as part of the process. I see the merit of the approach that you are speaking of, but in this case the site was identified. As part of the EIS, we are required to do an alternative analysis which considers the feasibility of the various sites.

Councilmember Yukimura: But in an EIS the purpose is just disclosure, it is not actual decision making.

Mr. Dill: I agree with you on the main purpose. The main purpose is disclosure, but it is also a requirement that alternatives be analyzed for the site.

Councilmember Yukimura: It is actually to show that alternatives were the lesser alternatives to the alternative that you have chosen. When in the process did you flesh out the alternative that you chose?

Council Chair Rapozo: Hold on, Councilmember Yukimura, this agenda item is a Right-of-Entry Agreement. This agenda item is not to assess the selection process of the site. That was already done a long time ago. We had Public Works here at this meeting many times, hours and hours regarding the selection process, feasibility studies, why it was not done, and we have passed that already. Today is the Right-of-Entry Agreement to give the Administration the ability to conduct an EIS on to that property. If you disagree with this process, then you vote no. I am not going to allow testimony or questions pertaining to the selection process because that is over. At the end of the day it is still going to be this body's decision whether or not we move forward because it involves funding. If this Council does not like that site, then we vote no. That is just the reality of it. If you have questions about the Right-of-Entry Agreement, I will entertain them. If you have questions about the selection process that happened years ago, I will not. The agenda item is the Right-of-Entry Agreement, so let us keep our questions to that agreement as stated on the agenda.

Councilmember Yukimura: Mr. Chairman, I agree with everything you said, except that the process that has led up to now has not given us a satisfactory answer which is why we keep going back to the question of where and how we got this site. I will not ask any more questions about it and I ask that we have another meeting about this issue. It is unresolved, there are many problems, and the proper process was not followed. I will ask for another session to look at it because all of you who do not want to cut waste and do not want to cut cost, I mean, we are going down this path and then to say that if we do not like it in the end, we get to reject it, is ridiculous. That is a very wasteful way of doing business. The way to do it is to do

the proper decision making so that we do not have to spend so much money needlessly. Even this Right-of-Entry for the wildlife analysis...

Councilmember Kagawa: Point of Order.

Councilmember Yukimura: ...should have been part of the scope...

Council Chair Rapozo: Hang on, Councilmember Yukimura.
Councilmember Kagawa.

Councilmember Kagawa: Are we in discussion now?

Council Chair Rapozo: No, we are not, and I am going to ask that you either ask a question or yield the floor. We will have discussion once we are done with the questions and answers.

Councilmember Yukimura: That is fine. I am done.

Council Chair Rapozo: Thank you. Councilmember Kagawa.

Councilmember Kagawa: We have been down this road, you were not here two (2) weeks ago, which is why we have this agenda item as a first item of the day. My suggestion is that if we need four (4) votes to pass this Right-of-Entry and it appears that we have three (3), just by my rough estimate, then let us move it until we have at least Councilmember Chock or Councilmember Hooser here. Otherwise I feel like we are basically trying to pound a square peg through a round hole.

Council Chair Rapozo: Councilmember Kagawa, do you have any questions for Mr. Dill?

Councilmember Kagawa: No, but...

Council Chair Rapozo: We will have discussion right after we are done with Mr. Dill. I have one (1) question. The EIS cannot proceed until we get this passed.

Mr. Dill: Relating to this Grove Farm Right-of-Entry, that is correct, we cannot proceed.

Council Chair Rapozo: In your opinion, this Right-of-Entry Agreement is necessary to conduct an EIS to the level that you would like to see it.

Mr. Dill: Absolutely. One of the significant issues the Council is aware of that we have come up with is relating to Lihue Airport. We have been working closely with the Department of Transportation (DOT) and through discussions with them and their requests, we are apparently about half way through with the Wildlife Hazard Assessment which involves us going on to these lands to monitor birds and wildlife. In order to continue that process, as we have agreed to with the Department of Transportation, we need the Right-of-Entry.

Council Chair Rapozo: Thank you. What I do not want to see today is that we get to a vote and we do not have enough votes one way or the other, so it ends up as a Special Order of the Day at the next meeting again. Councilmember Chock is coming back. I have no idea...I was not here last week, I am not sure what his position is, and it does not matter to me because when we vote it is going to fall

where it falls, and we deal with the result. Councilmember Chock comes in at 12:00 noon today. Councilmember Hooser is going to be gone for the entire day, obviously Councilmember Kaneshiro is recused, so I am inclined to move this to the later part of the day when Councilmember Chock returns just so that we can have a vote up or down. Again, we just have to accept the fact that there are different opinions on this Council and wherever it falls, it falls. Because we are only a four (4) member Council today, I am going to move this on and hopefully we can get the support to move that to the later part of the agenda. Are there any other questions for Mr. Dill before I release him? Councilmember Kagawa.

Councilmember Kagawa: Larry, because this Right-of-Entry affects the need for a new landfill – is it based on that, right? We need to do an EIS and we need the Right-of-Entry to perform the EIS, right?

Mr. Dill: Yes, absolutely.

Councilmember Kagawa: Coco Palms just made the news yesterday that they got the okay and they are saying that they are going to start demolishing...how much rubbish is that as far as years, is it six (6) months off of our landfill? It looks like a lot of rubbish to me but how much rubbish is that?

Mr. Dill: That is a good point. I am not in a position to quantify that right now.

Councilmember Kagawa: Okay.

Mr. Dill: I can say that we have been working with Coco Palms and they will have strong diversion programs as part of their demolition effort.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Any other questions? If not, thank you, Mr. Dill. Discussion? Councilmember Yukimura.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: My vote against this Right-of-Entry is symbolic. It is not really about the Right-of-Entry. It is about the whole process by which we have done this solid waste so-called "planning," which has not even followed the conventional planning process for projects because we failed to do a feasibility study. When we do it on projects of this magnitude, it is extremely expensive. I could even vote for the Right-of-Entry today because I know that on the merits of the Right-of-Entry, if you accept all the premises that lead up to it, you would have to...I mean it is a small issue compared to the issue that I am trying to raise. I was going to vote against it as a symbol and protest against this highly wasteful, ill conceived planning process that we followed with solid waste. In 1994, the County had a brand new landfill courtesy of FEMA (Federal Emergency Management Agency) that was at no cost to the County. That new landfill had a twenty (20) year life which could have been stretched to thirty-five (35) years if the new, at that time, Integrated Solid Waste Management Plan had been aggressively implemented. That plan contained all the elements that were reconstituted in the new Integrated Solid Waste Management Plan five (5) years ago. We did an Integrated Solid Waste Management Plan in 1994 and then we did a new one five (5) years ago and all it did was basically

put in the same things: Pay As You Throw, MRF (Materials Recovery Facility), and curbside recycling. We could have done that over the past twenty (20) years but we did not. Our problem is we keep doing plans and we do not do implementation. More recently, we have gone through finding the landfill site which we are now in a corner because we did not follow our Integrated Solid Waste Management Plan and our landfill is almost full. We are finding a new landfill without doing a feasibility study and using an EIS to do the work which is a very cumbersome and an inappropriate tool to use to do feasibility. I can vote for the Right-of-Entry today, but I wanted to make the point that this Solid Waste Management process has been a terrible violation of taxpayers' trust. That is what I am trying to raise up and protest against.

Council Chair Rapozo: Thank you, Councilmember Yukimura.
Councilmember Kagawa.

Councilmember Kagawa: First, I would like to thank Councilmember Yukimura for pushing this forward. I think her protest echoes many resident's feelings. The fact of the matter is you can pick any site and any site will draw a ton of backlash. Certainly, if I was Mayor, I would not have picked that Ma'alo site. We all do not get to be Mayor. That is one of the toughest decisions that a Mayor will ever make. You will be forever remembered for that choice, but as Councilmember Yukimura stated perhaps there are things that we may have missed or could have done better, I agree, there are always more that you can do when it comes to getting ready for such important decisions. At some point, we need to allow Public Works to do the work they need to do. The time is ticking and this time I feel like this is the final time that we will get an extension. I mean, there is never a final time, you can get an emergency extension when you really hit the end, but it probably comes with stiff fines or ramifications. We have six and a half (6.5) years to get a new landfill or maybe it is six (6) now. We have been saying six and a half (6.5) a year ago. Given all the extensions, such as the lateral expansion, I really feel like we need to do whatever we can to get ready for Ma'alo six (6) years down the line, we will be ready if the worst case scenario comes up. I am hopeful that we can get some kind of waste to energy plan at Kekaha and extend that to another ten to twenty (10 – 20) years. I try to think positive about a negative situation, but we always have to be ready in case nothing works out and that is why I am going to be supporting the Right-of-Entry.

Council Chair Rapozo: Anyone else? Councilmember Yukimura.

Councilmember Yukimura: I just want to say that I did not mention the Resource Recovery issue, the Right-of-Entry is for that as well as I understand it. With the Resource Recovery Facility, we are repeating the same mismanagement and errors that we have done with the landfill. We did not even analyze whether the most cost effective and user-friendly system is one of decentralized versus centralized, we have not analyzed that, and we are assuming that this particular Resource Recovery Center, that everything should be there. We are putting it on private land or we are analyzing that possibility. Why did we not choose some other private land elsewhere? There are just a whole lot of very fuzzy thinking and not good planning on that issue.

Council Chair Rapozo: Thank you, Councilmember Yukimura.
Anyone else? If not, I will just say, "Thank you, Councilmember Yukimura for supporting this to move it forward." I can appreciate your comments and can agree with a lot of them. I think this issue has been a pain in the butt for quite a long time now. It was seventeen (17) years ago when I first ran for Council, back in 1998, and this was a top priority for me back then. I have pushed and done everything I possibly could to get the former mayors to move on at least the discussion on a new landfill. I

want to commend Mayor Carvalho for finally saying, "We have to find a place." Now, is that the best site? I cannot sit here and tell you yes or no. I can tell you that the first site was in the middle of the coffee fields at Kaua'i Coffee which was ridiculous. That was not the Mayor's choice, it was the Committee's choice and the Mayor put his stamp of approval. I testified at Kalāheo against that site. It was ridiculous. Although I think marketing wise, you could have a landfill blend coffee on the shelves of Minnesota that would sell, I do not know. As far as the Administration going forward today, I will say this, I am probably the most intimate with this issue with Public Works than any other because we met so many times, Larry, over the last few years every step of the way. Every step of the way, it showed up here on this Council floor and yes, there were disagreements. You heard Councilmember Yukimura's vision and she knows what she is talking about, she was a mayor. She knows in her mind what she believes is the right way to do it and the Administration have chosen another path, is that the right or wrong path. I do not believe there is a right or wrong. I think circumstances and conditions dictate the direction you are going. I will say that I have sat with Larry folks and every step of the way they have kept me abreast as the Public Works Chair, "Mel, this is what we believe," and there was no reason for me to disagree. Again, I am no expert or engineer, but all I know is that I wanted this process to move forward quickly because as I stated seventeen (17) years ago we were told that Kekaha had five (5) years left. Five (5) years later, we were told that we have five (5) years left. Five (5) years later, we were told that we have five (5) years left. I am a public school graduate, but I know that five (5) years is five (5) years. So, I know in my mind that we were being misled along the way and I am talking for over the last seventeen (17) years. We are now at a point where if we are not going to do something, we are going to be in trouble and the Mayor finally made the commitment years ago and said, "This is where we are going." Councilmember Kagawa said it best...I do not care where this site was. I do not care if it was somewhere far away, we would be having the same discussion today. For you, Larry, I appreciate what you folks have done and at least moving forward now, we are not all going to agree and who knows what the EIS will show. Councilmember Yukimura is right, it is a disclosure statement, and not an investigation or a study that will say that you cannot do this. It is a disclosure. It is a requirement for the County to disclose to the public what we are doing. An EIS can be guided along by the person that is doing the EIS or requesting the EIS. Councilmember Yukimura, I appreciate the vote today because I do not think we can wait, but at the end of the day, I think we will have more discussions, and we will honor Councilmember Yukimura's request if she wants to have a separate briefing in the Public Works Committee. It is obvious that your passion is there, Councilmember Yukimura, and it has merit. I think we need to explore it. There will be no issue with that, we will get that done working with the Administration to get that done and again giving it the necessary time that it deserves to have a good thorough discussion. I believe that is required. With that, Councilmember Kagawa.

Councilmember Kagawa: I accept putting the discussion on Ma'alo, the MRF, and what have you, in my Committee.

Council Chair Rapozo: Roll call please.

The motion to approve C 2015-74 was then put, and carried by the following vote:

FOR APPROVAL:	Kagawa, Kualii, Yukimura, Rapozo,	TOTAL – 4,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock, Hooser	TOTAL – 2,
RECUSED & NOT VOTING:	Kaneshiro	TOTAL – 1.

Council Chair Rapozo: Could you read the next item?

There being no objections, C 2015-83 was taken out of order.

C 2015-83 Communication (02/20/2015) from the Chief of Police, requesting Council approval to purchase a forklift using unexpended funds from the Police Department, Administrative & Technology Bureau, Repair and Maintenance Vehicles account, at a cost of approximately \$60,000, to move large evidence items such as vehicles at the Lihue Police Station: Councilmember Kagawa moved to approve C 2015-83, seconded by Councilmember Kualii.

Council Chair Rapozo: Hang on while we get Councilmember Kaneshiro back. While we wait for Councilmember Kaneshiro, can we do the Consent Calendar?

CONSENT CALENDAR:

C 2015-55 Communication (01/16/2015) from the Director of Human Resources, transmitting for Council information, the October-December 2014 Quarterly Report, pursuant to Section 19 of Ordinance No. B-2014-781, relating to the Operating Budget of the County of Kaua'i for the Fiscal Year 2014-2015, which includes new hires, transfers, reallocations, promotions, and vacancies for the second quarter.

C 2015-77 Communication (02/20/2015) from the Executive on Transportation, transmitting for Council consideration, a proposed draft Bill to amend Chapter 17A, Kaua'i County Code 1987, as amended, relating to Bus Fares, to amend the Kaua'i Community College (KCC) Bulk Rate Discount Program from twenty percent (20%) to fifteen percent (15%) of the cost of four (4) monthly bus passes.

C 2015-78 Communication (02/26/2015) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee James D. Whitfield to the Cost Control Commission for the County of Kaua'i – Term ending 12/31/2017.

C 2015-79 Communication (02/26/2015) from Councilmember Kaneshiro, providing written disclosure of a possible conflict of interest and recusal, with regard to Bill No. 2571, relating to the development plans and future growth areas for the Lihue Planning District, as the Board of Ethics advised that a conflict may exist.

C 2015-80 Communication (03/02/2015) from Councilmember Kaneshiro, providing written disclosure of a possible conflict of interest and recusal, with regard to Bill No. 2576, relating to establishing regulations, procedures, zoning, development plans, and future growth areas for the South Kaua'i Planning District, and additions to Chapter 8 and Chapter 9, Kaua'i County Code 1987, as amended, as the Board of Ethics advised that a conflict may exist.

C 2015-81 Communication (03/03/2015) from Council Chair Rapozo, transmitting for Council consideration a proposed draft Bill to transfer \$225,000 from the General Fund – Unassigned Fund Balance to the Office of the County Auditor, Consultant Services account. This proposed draft supplemental money bill will allow the County Auditor to issue a Request For Proposal (RFP) for the Comprehensive Annual Financial Report (CAFR) and accompanying reports beginning with the reports for the Fiscal Year Ending June 30, 2015.

(Councilmember Kaneshiro was noted as present.)

Councilmember Kagawa moved to receive C 2015-55, C 2015-77, C 2015-78, C 2015-79, C 2015-80, and C 2015-81 for the record, seconded by Councilmember Kualii.

There being no objections, the rules were suspended to take public testimony.

Council Chair Rapozo: Glenn, just let me know which item you would like me to take off the Consent Calendar.

GLENN MICKENS: C 2015-77 which is also Proposed Draft Bill (No. 2580), but since I may not be here...it is KIF (Kaua'i Interscholastic Federation) today.

Council Chair Rapozo: Hang on. We will take that out of the Consent Calendar so that we can have the discussion. Who made the motion? Can we amend the motion to exclude C 2015-77?

Councilmember Kagawa moved to receive C 2015-55, C 2015-78, C 2015-79, C 2015-80, and C 2015-81 for the record, seconded by Councilmember Kualii, and carried by a 5:0:2 vote (Councilmember Chock and Councilmember Hooser were excused).

Council Chair Rapozo: Let us take item C 2015-77.

C 2015-77 Communication (02/20/2015) from the Executive on Transportation, transmitting for Council consideration, a proposed draft Bill to amend Chapter 17A, Kaua'i County Code 1987, as amended, relating to Bus Fares, to amend the Kaua'i Community College (KCC) Bulk Rate Discount Program from twenty percent (20%) to fifteen percent (15%) of the cost of four (4) monthly bus passes.

Council Chair Rapozo: Councilmember Yukimura, is that your bill?

Councilmember Yukimura: It is by request from the Administration.

Council Chair Rapozo: We will suspend the rules, with no objections. Mr. Mickens.

There being no objections, the rules were suspended to take public testimony.

Mr. Mickens: I have a short testimony here regarding this Proposed Draft Bill (No. 2580) or C 2015-77. You have a copy of my testimony. The taxpayers are subsidizing our bus system now with, I believe, over a million dollars (\$1,000,000) or more a year. This bill proposes to cut rates and thus increases that cost even more. Yes, it is for Kaua'i Community College, but what happens if the other bus users ask for the same discount since it is discriminatory to make others pay more?

We did one (1) pilot bus user project and it proved to be a huge bust. Only fifty (50) people out of fifteen hundred (1,500) who were offered free rides for thirty (30) days used the bus.

The contractual tax system used successfully in other municipalities has been suggested a number of times before our Council, so why have we not at least tried this system to see how it works? Having cabs like the Prius which gives great gas mileage would certainly lower subsidized costs of using big diesel buses, plus pollution. Or at least try using a combination of both.

Again, we keep using a system that is not efficient when there are other options available and we refuse to try them. We do need transportation for those who cannot drive or are disabled and this taxi system could certainly be far more efficient and cost effective than a big bus that has to pick up one (1) person – one (1) person for one (1) bus. Why do we get stuck on an antiquated system when a better system is in operation and we do not have to reinvent the wheel? And not just the bus system but in other operations of our County. I do not think this is a proper way to go. I am sure some of you remember Debbie that was on the Big Island and she mentioned that she drove a cab over there. They could not only pick people up, but take them back to other cabs circulating around and take them back home. The bus is just completely inefficient for doing those things. Thank you, Mel, for your time.

Councilmember Yukimura: I have a question.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Glenn, you are talking about apples and oranges because the taxi system you are talking about would possibly replace the paratransit system that is a house to destination service.

Mr. Mickens: Right.

Councilmember Yukimura: But the Kaua'i Community College service is a fixed line or the fixed route system which is not ever amenable to a taxi system that would be a thousand times more expensive than a fixed route system, if you were to take everybody by taxi. You are really talking about the paratransit system when you talk about an alternative taxi system, right?

Mr. Mickens: I am also talking about the amount of money we are spending yearly on subsidizing that system. There has got to be some way of putting efficiency into the system without continually raising fees to the taxpayer to keep subsidizing these things more, do we not?

Councilmember Yukimura: We subsidize the golf course by a million dollars (\$1,000,000) and you say that we subsidize public transit...

Mr. Mickens: I am saying that is wrong too.

Council Chair Rapozo: Hang on. Councilmember Yukimura...

Councilmember Yukimura: That is my question.

Council Chair Rapozo: Yes, but she brought up a point which I was going to bring up regarding paratransit. Glenn, the communication is specific to the Kaua'i Community College (KCC) program which is not point-to-point. It is the fixed route. I would ask that you keep the comments to that specific program that they are talking about and not the "bus" in general. You will have an opportunity during the budget hearings to discuss that.

Mr. Mickens: Basically, Mel, I was referring to both the paratransit system and the cost of subsidizing it.

Council Chair Rapozo: Yes, but this has nothing to do with paratransit and obviously Councilmember Yukimura is trying to get you to the point of the Bill that we are going to vote on today, to find out what your position is on the actual Bill.

Mr. Mickens: Right. I understand. Thank you.

Council Chair Rapozo: Anyone else wishing to testify on this matter.
Mr. Taylor.

KEN TAYLOR: I somewhat have a problem also with the bus pass discounts. I am certainly supportive of the bus system per say, but when you ride the bus, you inherit a savings. For the students to ride the bus, they benefit from the savings that they received from not driving an automobile. I think it can easily be shown that having to have an automobile can cost you anywhere from five thousand to eight thousand dollars (\$5,000 - \$8,000) a year when you pencil out all of the cost. Riding the bus for a student has a savings of five thousand to eight thousand dollars (\$5,000 - \$8,000). In light of the lack of money that the County faces with all departments and the subsidies that we currently support the bus system with, it does not make any sense and discounting rates especially for students that if they are close enough, they can either walk or ride their bikes, but if they are further out, the buses is a good alternative and should be used. For giving the discounts, I am concerned about that and to even continue that program. It is in the best interest of the taxpayers to eliminate the discount. The student benefits from riding the bus, the moneys they save, and not having an automobile. Thank you.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: Ken, are you saying that you do not support this Bill?

Mr. Taylor: That is what I am saying.

Councilmember Yukimura: If we do not have this Bill, we might not have the program at all because it requires the Board of Regents to approve it as well. This is a contract between the County and another governmental entity. If we do not approve this, that will mean that the students will not have any bus pass discounted.

Mr. Taylor: I think right now all residents of the island have the opportunity to buy a monthly bus pass and you receive some savings by doing that.

Councilmember Yukimura: Okay.

Mr. Taylor: I have no problem with that. But to give another fifteen percent (15%) or twenty percent (20%) discount to the students, I do not think is necessary. It is a burden at this point in time. I do not believe the County taxpayers can afford to deal with that. Thank you.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Thank you. Anyone else? Just so that you know that this Bill...right now we have a twenty percent (20%) discount for students at KCC. This Bill is reducing the discount to fifteen percent (15%) which will increase their cost, which will add more funds to Transportation. Just so we understand that this is decreasing the discount of that program and nothing more. Thank you.

JOE ROSA: When we were in high school, we paid a minimum three dollars (\$3) to the bus company and they would pick you up at 7:00 and 7:30. At 7:30, there is nothing for the students, they go straight to Kaua'i High School. They used to pick us up right in front the old Lihu'e Theater. They had stops along the way, and yet we got to school in about fifteen (15) minutes on the route, we were never late. To give a discount and it is not being run efficiently, to me, I hear a lot of reports about students getting home late. Once you missed a bus, that is it, you got to wait another hour or so. The parents start to worry about their children. Why only the KCC students? Why not all the high schools? You do not hear about the public buses taking children to high school. They should also have that implemented because they had that way back when I was going to school. Then we would not have parking problems at the school and students looking for places to park. Kaua'i High School, there was just an area in the front of the gym, and now they are going way back into the athletic field. The same thing is happening with Kapa'a High School. Too many cars. I think it is only one (1) student per car. They do not carpool. I see cars up and down after the school hours at Kaua'i High School, and I see all these single cars...what about the bus? Would the bus system not work? I think it should be looked at from all angles and before that, why do they not implement the bus stops. I know there was talk of making eleven (11) bus stops, but I think Councilmember Yukimura was wrong in her figures because you need twenty-two (22) – one on each side of the road. You are not going to drop off one (1) mile away from the pickup point. It is not an easy task. If you do it, do it right. Put twenty-two (22) bus stops where it is signified and would serve the public the most and go on from there. I do not think the bus will leave because it is not run properly. They should have shuttle bus to bring them out to the main bus stops like what they do in Honolulu, and you get a transfer ticket to go to the main line. To make the bus system more successful, look back and ahead and find out from other departments how it is run correctly and right. Thank you.

Council Chair Rapozo: Thank you, Mr. Rosa. Councilmember Yukimura.

Councilmember Yukimura: Mr. Rosa, are you for or against this Bill?

Mr. Rosa: Well JoAnn, you cannot keep spending taxpayers' money. We are up to our neck in taxes. You know that.

Councilmember Yukimura: So, you are against the Bill.

Mr. Rosa: I am not totally against it, but do the right things.

Councilmember Yukimura: Thank you.

Mr. Rosa: You want something, look into it, do your research, and do your homework.

Council Chair Rapozo: Mr. Rosa, you answered the question. Thank you.

Mr. Rosa:

Thank you.

Council Chair Rapozo: Again, this Bill does not raise taxes; it decreases the discount given to students at KCC. That is what this does. Any other members in the community wishing to testify? If not, I will call the meeting back to order.

The meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: When Mr. Mickens was up, a Councilmember asked if he was informed that golf was subsidized a million dollars (\$1,000,000), right? Did you also know that tennis, surfing, swimming, in the form of restrooms and lifeguards, baseball, softball, soccer are all subsidized by the County? The only sport that I could think about that is not subsidized by the County is bowling. The only difference is that the golf course actually has a separate account. All the other sports, I think an analysis would be nice, but how helpful would it be, I do not know. It has always been part of our job to pay for some of these recreational activities. To single out all the golfers, I am a golfer, Glenn is a golfer, but do we ride the bus? No. But do we accept paying our share for the bus? Yes, because it is a service that helps everyone and golf helps everyone as well. Thank you, Chair.

Council Chair Rapozo: Thank you. Councilmember Yukimura. I think he was agreeing with you, actually.

Councilmember Yukimura: I am not disagreeing with him. I just want to extend Councilmember Kagawa's analogy to Police and Fire too. We subsidize Police and Fire because they are essential services and our community cannot do without them. Transportation is the same thing. We cannot do without transportation. We subsidize the roads and the private automobiles even more deeply than we do the bus. Yes, let us keep this in perspective and I appreciate what Councilmember Kagawa has said.

Council Chair Rapozo: Okay. Councilmember Kaneshiro.

Councilmember Kaneshiro: Just to follow-up on what Council Chair Rapozo has said, although it says that we are reducing the rate to fifteen percent (15%), it is actually increasing their costs. The current rate they were paying was at twenty percent (20%) of the costs and they must have calculated that a while ago, and their bus fees were at twenty dollars (\$20). The proposed rate is fifteen percent (15%) and they are paying twenty-four dollars (\$24) dollars. We are actually reducing the rate, but it is increasing how much they pay for the bus. We are not reducing the amount of money for the bus.

Council Chair Rapozo: We are decreasing the subsidy is what we are doing because we subsidize everything except bowling. Any other discussion?

Councilmember Kagawa moved to receive C 2015-77 for the record, seconded by Councilmember Kuali'i, and carried by a 5:0:2 vote (Councilmember Chock and Councilmember Hooser were excused).

Council Chair Rapozo: Let me just ask this real quick, on item C 2015-82, do any Councilmembers have concerns?

Councilmember Kagawa: Yes, I have a few questions.

Council Chair Rapozo: Okay, that is fine. The only reason I ask is because I wanted to get the Police out of here, so let us take C 2015-83 out of order.

There being no objections, C 2015-83 was taken out of order.

COMMUNICATIONS:

C 2015-83 Communication (02/20/2015) from the Chief of Police, requesting Council approval to purchase a forklift using unexpended funds from the Police Department, Administrative & Technology Bureau, Repair and Maintenance Vehicles account, at a cost of approximately \$60,000, to move large evidence items such as vehicles at the Līhu'e Police Station: Councilmember Kagawa moved to approve C 2015-83, seconded by Councilmember Kualii.

Council Chair Rapozo: Councilmember Kaneshiro, did you want to have the Police up here?

Councilmember Kaneshiro: Yes. I actually sent them an E-mail earlier and they answered the questions, but I think it would be good for us and the public for me to re-ask the questions up here and have them answer it.

Council Chair Rapozo: Thank you.

There being no objections, the rules were suspended.

Councilmember Kaneshiro: Thank you for coming. I sent the information earlier but I think when you folks answered my questions, it was good information, and I think everyone should hear it. I am just going to go through my questions, and if you folks can answer them again. Reading it – initially I was thinking sixty thousand dollars (\$60,000) is a lot for a forklift, that we might be able to do different things with it, and I appreciate the savings that you have done so my questions are geared towards that. How was the Police moving these items prior to this request?

ROBERT GAUSEPOHL, Acting Assistant Chief: We currently have a smaller forklift. It is actually really good news. Glenn was able to save us a substantial amount of money and rather than budget for it, we are able to use the existing budget to pay for this. The forklift we have now is undersized and it is getting old. I am sunburned now because we spent half a day moving a bunch of things that should have taken us about an hour, yesterday.

Councilmember Kaneshiro: How much use would the new forklift get?

Mr. Gausepohl: It is hard to say, but I would say roughly three (3) times a week. It depends on how many vehicles are coming in and going out. It begs the question why the Police Department needs a forklift. We have over a hundred (100) vehicles right now in evidence and/or slated for disposal. We also have boats, safes, trailers, pallets of copper, I am sure Mel knows all of the things that we have to take, store, and hold. Those things have to be moved and Glenn is an expert on the forklift. It is getting to the point where it is almost dangerous to use that small forklift because we are dealing with larger vehicles now; trucks, suvs (sport utility vehicles) are getting bigger. To answer your question – at least three (3) times a week.

Councilmember Kaneshiro: My final question, would it be more cost effective to borrow an existing forklift from the County?

Mr. Gausepohl: It would not be practical because sometimes we need to use the forklift right now. For example, if we have a subpoena where a defense attorney, insurance company, or even a victim's family wants to view a crash vehicle, we are going to need to present that in a timely way. They are going to have to truck that thing over, is not practical. If we send a release, we are going to release this vehicle, and they show up unexpectedly, we want to get them their vehicle back as quickly as possible.

Councilmember Kaneshiro: Okay, thank you.

Councilmember Yukimura: Thank you for being here. You sort of answered my question right away when you said you already had a forklift which means that it is a necessary part of your operations, but I guess this is a chance to get a larger one that would serve more of your needs, is that what I am hearing?

Mr. Gausepohl: That is correct, yes.

Councilmember Yukimura: You said that this forklift is getting old, but what would you do with this smaller forklift?

Mr. Gausepohl: Well, Glenn is very innovative and we are very lucky to have him. He suggested that we...we have a large warehouse where we have pallets stacked on pallet racks. He is able to put evidence items on the pallet and then lift them quite a ways up to more effectively use the space that we have.

Councilmember Yukimura: But you cannot do that with the larger forklift?

Mr. Gausepohl: That larger forklift would not fit inside the warehouse with the vehicles and this little one can maneuver around.

Councilmember Yukimura: Would you keep the little one?

GLENN Y. EBESU, Fleet Coordinator: We would actually downsize that because it has an extension, the fork is much wider, we would take that off and make it more narrow to actually fit in there.

Councilmember Yukimura: I see.

Mr. Ebesu: It barely fits right now, but taking that off, it will fit right in the warehouse and...

Councilmember Yukimura: And then by being able to store higher in those racks.

Mr. Ebesu: Utilizing space efficiently.

Councilmember Yukimura: You have a place to keep both pieces of equipment and to store it out of the weather?

Mr. Gausepohl: Yes.

Councilmember Yukimura: Good, because we did not think about that with our helicopter. Okay. That answers my questions, thank you very much.

Council Chair Rapozo: Any other questions? I have one. When you get the big forklift, how often will you use the little forklift? I have a problem when we buy stuff and the intent is to replace an old thing, but we keep the old. I am not just talking about the Police Department, I am talking about the County. We come up with justification because we need a new piece of equipment, but then we keep the old one, and then the assets and maintenance continues to grow. Is it possible to share the use of a smaller forklift with other departments because I would not think that would require...you would plan ahead, when you are going to be working inside and moving stuff around. I know it is convenient, but at this time, in our budget...

Mr. Gausepohl: I think we can share it with somebody else if they want to come and get it.

Mr. Ebesu: We do share. I unload all the bus stuff for them.

Council Chair Rapozo: I am talking about the forklift because if we can...

Mr. Ebesu: We do share with the bus. I move all the oil for them, their tires...

Council Chair Rapozo: Yes, but you can do that with the new forklift. You know what I am saying.

Mr. Ebesu: Put it this way...

Council Chair Rapozo: What I am trying to do is I am trying to sell that old one so we can get some money back. I guess that is what I am trying to say.

Mr. Ebesu: What we are buying is double the size. The efficiency of using the big one in that warehouse, we would lose more size than save space. By getting the bigger one, we can make the forklift...we can actually take out the extra tire, the dully, and make that smaller.

Council Chair Rapozo: I understand that but let us say that next week you are going to be moving things in the warehouse on your shelves, do we have another forklift in the County right now that you could borrow? JoAnn asked the question earlier and sometimes we need to do it right now so we cannot wait and it has to be trucked over.

Mr. Gausepohl: I think we could share our forklift, if somebody else needs to use it.

Council Chair Rapozo: Yes, but if two (2) people have forklifts, there is no need to share, right? Is there a forklift in the County inventory right now that...I do not ever see us selling or auctioning off equipment...

Mr. Gausepohl: Because we use it until we cannot use it anymore.

Council Chair Rapozo: Yes, but I am saying that we are getting the new one, but as I contemplate how we get through this next budget session when we

replace an asset, we should be selling that asset or get some kind of credit on that asset. If you need the two (2) then you need the two (2).

Mr. Gausepohl: Actually, we do need the two (2). The larger forklift would be primarily for vehicles and like I said we have over a hundred vehicles that we have to move. The smaller one...if we need a piece of evidence that is on the third or top row of that pallet rack...

Council Chair Rapozo: You will not be able to do it with the new one.

Mr. Gausepohl: No, because we cannot get the new one into the evidence warehouse because we have existing vehicles that we have to keep in there and any murder...

Council Chair Rapozo: Okay. I understand. Are there any other questions? If not, thank you. Anyone in the audience wishing to testify? Seeing none.

The meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: I just want to commend Glenn for the work that he has been doing. I see that some of those cars are really past its time and he is keeping them running. I try to talk to him whenever I get the chance, normally around the golf course, but I think certainly without Glenn there, I think the County would be in a lot of trouble. Thank you, Glenn for the job that you are going.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: Thank you for your cost savings. Initially when we saw this come through I was thinking, you saved money, why are we trying to spend it. I am happy with the answers you gave and it really justified why you need it. When you answered me originally too the need was based on safety and being able to move the bigger cars safely, you folks could not do it with the smaller forklift. Thank you for your quick response.

Council Chair Rapozo: Likewise, thank you folks for being here for clarifying the questions. Glenn, do not take it as...I am just trying to find ways, just like everybody else, how to cut costs over here. It is frustrating and not just with the Police Department, I am talking County-wide how we buy assets and you will see it, in fact, the next item are more assets...we are getting close to the end of the fiscal year, have to spend the money, and yes, we can find justifications, but again, I think we have to start that when we replace stuff, we have to get some sort of credit by auctioning it off and raising revenue that way. We cannot continue to build and build an inventory of assets that we have to maintain. The longer these things are in inventory, the more it costs to maintain because it is old and it is not working right. I am all for giving you the tools that you need, but again, having that balance that if we are replacing something then we replace something, but your explanation explains why it is necessary. Thank you.

The motion to approve C 2015-83 was then put, and carried by a 5:0:2 vote (Councilmember Chock and Councilmember Hooser were excused).

C 2015-82 Communication (02/19/2015) from the County Engineer, requesting Council approval for the Department of Public Works, Roads Division to

purchase the following equipment using existing "Other Supplies" Base Yard Operating Funds (Fiscal Year 2014-2015):

- One (1) Bush Mower Brushwolf 4200X, at an estimated cost of \$12,000;
- Two (2) Road Tower Light Plants for the Hanalei and Hanapēpē Base Yards, at an estimated cost of \$11,000 each (total \$22,000);
- One (1) Electronic Road Message Board, at an estimated cost of \$20,000; and
- Two (2) Utility Trailer Zieman 1170 Tilt Type for the Kapa'a and Hanapēpē Base Yards, at an estimated cost of \$11,000 each (total \$22,000).

Councilmember Kuali'i moved to approve C 2015-82, seconded by Councilmember Kagawa.

Council Chair Rapozo: Councilmember Kagawa.

There being no objections, the rules were suspended.

Councilmember Kagawa: Thank you for the listing of the purchases. Item one (1), and this is a question, I recall purchasing something in the last budget like an attachment for the levees? Is this another attachment in addition to or is this the same one that we always intended to purchase?

ED RENAUD, Chief of Field Operations & Maintenance: This is something new. Because of the irrigation and the grass that we are putting on the levees right now, this is much cheaper. I am buying a special mower that cost me sixty to eighty something grand. With this attachment going on to the existing equipment that I have on the levee, a small excavator would be a new attachment; this would work well on the slopes.

Councilmember Kagawa: So basically you attach it to the excavator and it mows the slope?

Mr. Renaud: Correct.

Councilmember Kagawa: I am looking at item number two (2): Two (2) Road Tower Light Plants for the Hanalei and Hanapēpē Base Yards, are we planning on doing night work with our road crews or is this just on an emergency basis when we have to go out there and we want to make it safe for the employees?

Mr. Renaud: This is on an emergency basis that we need this. At one time we were using the Department of Transportation's but it came to a point where we could not get it from them because they were busy. The other thing we went out to see if we could rent from the different agencies, but everything was taken up...we could rent it if they brought it in special from Honolulu and I said no. I have been trying to get this equipment for us so that we will work safely and not with headlights.

Councilmember Kagawa: Does the Department of Water have their own or do they borrow?

Mr. Renaud: I do not know.

Council Chair Rapozo: Anyone else? Councilmember Yukimura.

Councilmember Yukimura: Good morning. The Bush Mower Brushwolf 4200X, I appreciate the resourcefulness in modifying an existing piece of equipment to do the work you need to do on the levees. Have you considered the time needs or the needs for this excavator and the other jobs and you know that it can be used in all situations without affecting other work that it does?

Mr. Renaud: Correct.

Councilmember Yukimura: You have considered that.

Mr. Renaud: Yes.

Councilmember Yukimura: So you would be using this on its "downtime?"

Mr. Renaud: Yes.

Councilmember Yukimura: To do the mowing of the levees?

Mr. Renaud: Yes.

Councilmember Yukimura: We do not have any tower light, which means this is not a replacement; this is something new.

Mr. Renaud: Correct.

Councilmember Yukimura: Can you explain this Utility Trailer.

Mr. Renaud: We have a big lowboy that we move equipment around, but because we do a lot of the big stuff, it gets tied up. With us getting a smaller trailer where our pickup trucks can utilize to move the rollers and mowers, it would be more efficient for us.

Councilmember Yukimura: In terms of having a place for them to be stored and protected, you have that too.

Mr. Renaud: Correct.

Councilmember Yukimura: Alright, thank you.

Council Chair Rapozo: Any other questions? If not, thank you. Anyone in the audience wishing to testify? Mr. Mickens.

Mr. Mickens: I completely support our County getting any equipment they need to do their jobs. On my walks every day up in the Homesteads, I have come across some County workers up there using cane knives to cut some of the trees. Why do you not have chainsaws, it is not tough on you? They did not have a lift truck to get to the things, and had to have a pull thing to try and trim these trees. I am not sure where the problem is. I think they said sometimes they erroneously break these things, and if they get broken, they say that they are not going to replace them simply because they did not know how to use them and it was their fault. There seems to be a lack of coordination between Larry or whoever is in charge. Again, I have watched these guys and they work their rears off up there and

I really appreciate the jobs they do to try and take care of the huge area all the way from Puhi to the North Shore. The guinea grass which is such a huge problem. It proliferates all over the island, you know, you drive the same places we do. Anyway, I do completely support them if they need this equipment, give it to them. If they do not know how to use the equipment and it breaks because of their fault then I think it is up to somebody to do the instruction on this to be able to show these folks. Thank you.

Council Chair Rapozo: Thank you, Mr. Mickens. Anyone else in the audience wishing to testify? If not, meeting called back to order.

The meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: Could I have Ed come back for just one (1) quick question?

Council Chair Rapozo: Sure.

There being no objections, the rules were suspended.

Councilmember Yukimura: The question I asked about the storing of a utility trailer, I guess, or any and all equipment that Public Works asks for, may I presume that you have thought about where it is going to be stored and that there is a place to store it where it is out of the elements so that it is well maintained and that we have a useful life.

Mr. Renaud: Yes, we do.

Councilmember Yukimura: So, that is for all this equipment.

Mr. Renaud: Yes.

Councilmember Yukimura: Okay, thank you.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Since you are here, have we ever found that generator that was stolen from the Kōloa Fire Station?

Mr. Renaud: No.

Councilmember Kagawa: I know it came out on the front page of The Garden Island.

Council Chair Rapozo: Yes, but nobody reads that.

Councilmember Kagawa: And we pleaded to the public for help and I am surprised that we could not find that big thing.

Council Chair Rapozo: You have to put it on Facebook or Twitter because that is what everybody is reading now. I have a question. Larry, you do not need to get up because we can send something over. Do we keep a checklist or spreadsheet of equipment that is down? This is a follow-up to what Mr. Mickens is asking. I have heard that as well, "The thing is broken forever – two (2) years, and we are not fixing it," but do we have a...Larry, you do not need to... are you going to

come up? We will send it over in writing, if we could get a report on all the downed equipment from lawnmowers...

Mr. Dill: The Auto Shop, Dwayne Adachi, is doing a great job. We have him sending us a weekly report with all the equipment that is in his shop. We know exactly how long it has been in there...

Council Chair Rapozo: The lawnmowers do not go there.

Mr. Dill: No, that is small stuff.

Council Chair Rapozo: Yes, I am talking about all of these things because when they are using cane knives to chop trees that is not right. Unless that is what you folks do but that does not make sense. That was intended to cut cane and not trees. I am kind of interested in knowing...I know I have heard complaints from employees about lawnmowers that when it breaks, it takes a long time to fix. Again, I do not expect you folks to answer that. That is just a question that I have right now and we will send over, unless you have the answer. I am hoping that we are tracking these things.

Mr. Renaud: Everything is being tracked. We have a program, thanks to you folks on the funding, that has been created. Everything that we have is on record.

Council Chair Rapozo: To your recollection, what equipment have been out-of-service the longest?

Mr. Renaud: That is hard to say because with the motor pool, they are very efficient. They are moving fast because of our needs.

Council Chair Rapozo: Okay. Thank you. We will send that over. We have enough cars to take care of this County. It is the small equipment and tools that are my concern and that we are giving our men the tools they need.

The meeting was called back to order, and proceeded as follows:

The motion to approve C 2015-82 was then put, and carried by a 5:0:2 vote (Councilmember Chock and Councilmember Hooser were excused).

LEGAL DOCUMENT:

C 2015-84 Communication (02/18/2015) from the Executive on Transportation, recommending Council approval of a Grant of Easement with Hokulei Village LLC to the County of Kaua'i, for access and bus shelter purposes related to a public transit bus stop at Hokulei Village Shopping Center, Tax Map Key (TMK) No. (4) 3-3-003:046, Lihu'e, Kaua'i, Hawai'i.

- Grant of Transit Easement

Councilmember Yukimura moved to approve C 2015-84, seconded by Councilmember Kualii.

Council Chair Rapozo: Any discussion? Anyone in the audience wishing to testify?

Councilmember Yukimura: Yes, can we ask the Transportation Agency to come up?

Council Chair Rapozo: Sure. For the public, this is near the new Safeway that is being built.

There being no objections, the rules were suspended.

Councilmember Yukimura: I am glad Chair mentioned this is the Safeway Shopping Center which is coming up across from Chiefess Kamakahelei Middle School.

CELIA M. MAHIKOA, Executive on Transportation: Yes, that is correct.

Councilmember Yukimura: Where is the bus stop going to be?

Ms. Mahikoa: This bus stop location is on Nuhou Street which is on the Chiefess side of the development. It is between Kaumuali'i and their driveway, along Nuhou Street.

Councilmember Yukimura: And we have a bus going along that route?

Ms. Mahikoa: Not currently. We are working as the developers come in with their plans, we are asking for their cooperation with a location such as this so that we can in the future. We see the need for the Puhi area to receive additional service in the future and so I am trying to plan for the future. We are grateful that the developers are willing to work with us on that and provide situations like this where they are assisting with that.

Councilmember Yukimura: So right now we do not have a route and the easement is just for the future when we do have a route that comes through there?

Ms. Mahikoa: That is correct.

Councilmember Yukimura: I know that is part of the Līhu'e Community Plan. There is a projection of needing a more extensive Līhu'e-Puhi-Hanamā'ulu shuttle, right, a circulator.

Ms. Mahikoa: Yes.

Councilmember Yukimura: So that is where that would happen. When would there be a plan for the routing of those circulators? Is that going to be part of the short-range transit plan or is that a subsequent area specific plan?

Ms. Mahikoa: We anticipate it being reflected in the short-range transit plan which we anticipate coming up within the next eighteen (18) months or so. It will all be determined by the needs of the community in that area and the community meetings that are held during the development of the short-range transit plan.

Councilmember Yukimura: Okay.

Ms. Mahikoa: As far as exactly how the routing will be, the design for the area would be determined by the study.

Councilmember Yukimura: What is your criteria for deciding when a parcel of land needs to give a transit easement or not? For example, all the properties along Nuhou Street, conceivably when they come up for zoning permits or...well, they are zoned already, I guess, but zoning permits. This must have been a condition of a zoning permit.

Ms. Mahikoa: It has been in the works for actually quite a while. They were willing to work with us from the very beginning which we are, of course, very grateful for. We are just in the matter of working out exactly where the stops should be located. Ideally, not needing to go into parking areas and ways that are going to be...

Councilmember Yukimura: Slow down the bus.

Ms. Mahikoa: Slowing it down and also increasing the level of risk it takes when driving through parking lots and situations like that. In doing this we are grateful that the opportunity came up whereas they are working with us on it and then we will have the opportunity to redesign the shuttle service in order to service that location.

Councilmember Yukimura: I think we know that shopping centers are great places for bus stops because they gather a lot of people, they tend to be a transfer point, et cetera.

Ms. Mahikoa: Exactly.

Councilmember Yukimura: How do you know whether the property next door, if they come in for zoning...we are not going to ask every property...how do you know before you have a plan where you want it? Is that something that will be determined in the short-range plan?

Ms. Mahikoa: Ideally, yes. It will include those elements as well in the short-range transit plan, but basically we have been needing to work with the properties that have come up. If they are determined to be high demand areas such as...like you just mentioned shopping areas where there are many individuals who visit, people are going shopping there, they are going to be needing transportation as well. We service quite a number of seniors and individuals with disabilities who could make great use of that bus stop as well. We see the advantage.

Councilmember Yukimura: In the selection of the actual area where the bus stop and shelter will be, is that taken into account when they design the parking and the pedestrian flow from the shops to the bus shelter so that it is a safe passage for pedestrians walking from the shopping area to the bus shelter.

Ms. Mahikoa: That is ideal that they do include that in the design as far as the parking area, however, we did not dictate to them exactly how their parking area should be laid out. We do request ADA (Americans with Disability Act) compliance and therefore the access to the stop is considered ADA compliant.

Councilmember Yukimura: From the shopping area, ADA is required?

Ms. Mahikoa: Yes.

Councilmember Yukimura: Okay, good. Does this easement require the building of a shelter or is that going to be our responsibility?

Ms. Mahikoa: We have requested the inclusion of the shelter and the amenities that come with it.

Councilmember Yukimura: Okay, very good. Thank you very much.

Council Chair Rapozo: Thank you. Any other questions for Celia? Thank you, Celia. Anyone in the audience wishing to testify? Seeing none...Mr. Rosa. Again, this is specific to this easement, okay?

Mr. Rosa: Again, this thing for bus shelters, the developer at times, you can look at it and they provide. You take the Kukui Grove area, Longs Drugs provides benches for customers to sit down for relatives or friends to pick them up. There was no bus system when Kukui Grove came about. They have provided bus stops under the monkey pod tree across from First Hawaiian Bank on the opposite end. It was not planned. The developers do not know what to do to provide shelters when you did not have any bus system then. Now, I see the Kaua'i Bus stops in front of Longs to see if any passengers were waiting for the bus. Sometimes the bus goes by, but they are still there sitting down because they say that they have relatives that will pick them up. It is not a clear cut thing. Today, I still say Safeway, their parking area...it is not talking about one (1) bus shelter, you need two (2). You need the pickup and drop off. Is the bus going to be turning every time into the Safeway parking lot to pickup which might cause traffic problems to get in and out of that area. All of that has to be taken into consideration. Again, JoAnn is like ready, fire, aim. The thing is...you cannot just do things without planning. I see the County bus stops right in front the crosswalk and somebody almost got hit because they tried to pass the bus stopped in front Longs. I think the bus driver should be taught to go a head of the crosswalk so that the people coming can see the pedestrians crossing in the crosswalk – again, it is a safety factor involved. Where do you put the bus stop? That is going to be a busy intersection where Safeway is going because of peoples' curiosity and the second supermarket that people in Lihu'e area can enjoy. Westside people will be coming in to shop at Safeway and Times. Bus stop shelters have to be provided by the developer in the plans, but there is no sound bus system. If the bus system does not work, it will become a shelter for the homeless at night. Thank you. Remember – two (2) bus stops.

Council Chair Rapozo: Celia is digesting all what you are saying. Anyone else wishing to testify?

The meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Any discussion? Seeing none.

The motion to approve C 2015-84 was then put, and carried by a 5:0:2 vote (Councilmember Chock and Councilmember Hooser were excused).

CLAIM:

C 2015-85 Communication (02/24/2015) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Darryl D. Perry, Chief of Police, County of Kaua'i, for Standard of Conduct Differential (SOCD) compensation, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Kualii moved to refer C 2015-85 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Councilmember Yukimura.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: I will be requesting an Executive Session at the next Council Meeting to be briefed, Mauna Kea, if you could work on the posting. I do not know if any of you have read this claim but for what I have read, this claim should have never been a claim, and it should have been resolved at the personnel level at the Administration. If you read it, you will see that. It is again, a waste of time and money. I encourage all of you before the Executive Session, to get a copy of it and read it. Mauna Kea, again, I am asking that you have someone prepared for the next Council Meeting to deal with this matter. It is frustrating to have to go through this process.

The motion to refer C 2015-85 to the County Attorney's Office for disposition and/or report back to the Council was then put, and carried by a 5:0:2 vote (Councilmember Chock and Councilmember Hooser were excused).

COMMITTEE REPORTS:

PLANNING COMMITTEE:

A report (No. CR-PL 2015-07) submitted by the Planning Committee, recommending that the following be Approved on second and final reading:

"Bill No. 2575 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ZONING DESIGNATION FOR CERTAIN NON-ZONED LANDS,"

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Kagawa moved for approval of the report, seconded by Councilmember Yukimura, and carried by a 5:0:2 vote (Councilmember Chock and Councilmember Hooser were excused).

BUDGET & FINANCE COMMITTEE:

A report (No. CR-BF 2015-09) submitted by the Budget & Finance Committee, recommending that the following be Received for the Record:

"C 2015-55 Communication (01/16/2015) from the Director of Human Resources, transmitting for Council information, the October-December 2014 Quarterly Report, pursuant to Section 19 of Ordinance No. B-2014-781, relating to the Operating Budget of the County of Kaua'i for the Fiscal Year 2014-2015, which includes new hires, transfers, reallocations, promotions, and vacancies for the second quarter,"

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Kualii moved for approval of the report, seconded by Councilmember Yukimura, and carried by a 5:0:2 vote (Councilmember Chock and Councilmember Hooser were excused).

RESOLUTION:

Resolution No. 2015-25 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE COST CONTROL COMMISSION (*James D. Whitfield*): Councilmember Kualii moved for adoption of Resolution No. 2015-25, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Go ahead, Councilmember Kagawa.

Councilmember Kagawa: I am glad we had a little discussion with Mr. Whitfield today. I think one would say that if you look at his resume, how does he fit the Cost Control Commission having not been a long time resident of Kaua'i, and does not have a direct financial background in accounting or finance, but I think based on some of the things you point out, Mr. Chair, with the Cost Control perhaps not doing what we really want them to do to help us make good decisions going forward for the County. I think going outside of the box may be the answer. I am hoping he adds that component to the Cost Control Commission. I will be supporting his appointment.

Council Chair Rapozo: Anyone in the audience wishing to testify? Seeing none.

The motion adoption of Resolution No. 2015-25 was then put, and carried by the following vote:

FOR ADOPTION:	Kagawa, Kaneshiro, Kualii,	
	Yukimura, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock, Hooser	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2580) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 17A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO BUS FARES: Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2580), on first reading, that it be ordered to print, that a public hearing thereon be scheduled for April 8, 2015, and that it thereafter be referred to the Housing & Transportation Committee, seconded by Councilmember Yukimura.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for passage of Proposed Draft Bill (No. 2580), on first reading, that it be ordered to print, that a public hearing thereon be scheduled for April 8, 2015, and that it thereafter be referred to the Housing & Transportation Committee was then put, and carried by the following vote:

FOR PASSAGE:	Kagawa, Kaneshiro, Kualii, Yukimura, Rapozo	TOTAL – 5,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock, Hooser	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Proposed Draft Bill (No. 2581) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2014-781, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2014 THROUGH JUNE 30, 2015, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Office of the County Auditor, Consultant Services - \$225,000*): Councilmember Kagawa moved for passage of Proposed Draft Bill (No. 2581), on first reading, that it be ordered to print, that a public hearing thereon be scheduled for April 1, 2015 at 8:30 a.m., and that it thereafter be referred to the April 1, 2015 Budget & Finance Committee, seconded by Councilmember Kaneshiro.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for passage of Proposed Draft Bill (No. 2581), on first reading, that it be ordered to print, that a public hearing thereon be scheduled for April 1, 2015 at 8:30 a.m., and that it thereafter be referred to the April 1, 2015 Budget & Finance Committee was then put, and carried by the following vote:

FOR PASSAGE:	Kagawa, Kaneshiro, Kualii, Yukimura, Rapozo	TOTAL – 5,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock, Hooser	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I would like to clarify the motion. The public hearing will be at 8:30 a.m. on April 1, 2015, and thereafter will be referred to the Committee Meeting that same day at 10:00 a.m. We are expediting the public hearing, and Committee Meeting for that item.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: It is April 1, 2015 public hearing and April 1, 2015 Committee Meeting?

Councilmember Kagawa: Yes, and it is not April Fools'. It is for real.

Council Chair Rapozo: For the public's information, this is to fund or encumber the consultant that does our annual financial audit. We out source the financial audit, we have a private, outside third party organization that does the financial audit every year. It is called the CAFR (Comprehensive Annual Financial Report), you folks hear that word all the time. The current contract expires this year and we need to get into another contract period. We need to get this contract awarded so that...whether it is the same firm or a new firm can come in well before the end of the fiscal year to start the process to conduct an audit for the next fiscal year. We

need to expedite this. Although it is not common to have the public hearing the same day as the committee, it still does not take away from the opportunities for the public to testify as well as the discussion that we will have at the following or subsequent council meeting where this will be voted on. I just wanted to make that point clear. Thank you, Councilmember Kagawa. At this time, I want to take our caption break so that we do not have to stop in the middle of the next two items, and we can go straight through our lunch break. With that, we will take a ten (10) minute recess.

There being no objections, the meeting recessed at 10:28 a.m.

The meeting was called back to order at 10:38 a.m., and proceeded as follows:

Council Chair Rapozo: Welcome back. Can we have the next item please?

BILLS FOR SECOND READING:

Bill No. 2574 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Real Property Tax Relief for the 2015 Tax Year*)

Ms. Fountain-Tanigawa: Council Chair Rapozo, we have one (1) registered speaker. Gary Pierce.

There being no objections, the rules were suspended.

GARY PIERCE: Good morning Council. Bill No. 2574 is the limit to the property tax to raise to only two hundred fifty dollars (\$250) in the next year. This should pass, if only because of the conflicting information sent out by the Department of Finance, it is poorly written at best. It says, "You must apply by December 31," I have a copy right here. It says, "The very low income tax credit limited real property tax to three percent (3%) must apply by January 15," that is a conflict right there. If passed by the Council... you have to apply before the law even comes into effect. It is not even logical. The Council has overturned the cap further, items such as social justice or fairness, but in reality it is to refinance and borrow more money for deficit spending and ongoing spending. Again, the cap was overturned so Administration could continue spending more money than it brings in – we are deficit spending. One of our greatest Presidents' of this time said, "Solution to the problem is not government, the government is the problem." I listened to Sam Sloane, our elected official in Honolulu, and his opinion was floating general obligation bonds for operations is illegal. You have a capital budget, it should be spent on bridges, roads, housing, and other things like that. That is all I have to say on this Bill. This Bill should be passed and taxes be limited at least for another year. Also, it puts sort of a cap and you are the legislative branch and this will actually limit the Administration from spending more than it has. Thank you for your time.

Council Chair Rapozo: Thank you. Any one else wishing to testify? If not, the meeting is called back to order.

The meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Discussion. Where is Councilmember Kagawa?

Councilmember Kagawa moved to receive Bill No. 2574 for the record, seconded by Councilmember Yukimura.

Council Chair Rapozo: Discussion?

Councilmember Yukimura: This Bill is being touted as restoring the cap as if we would be bringing things back to how they were before the cap was removed but this is not so. While this Bill would be capping those who would be paying low property taxes and keeping those taxes from going higher, this Bill would not be increasing those who are paying higher taxes for comparable property and whose taxes were lowered when we removed the cap. The result would be a loss in revenues of at least one million dollars when we are already chasing ten million dollars (\$10,000,000). It will surely result in a loss of essential services, while giving some people up to twenty thousand dollars (\$20,000) in tax subsidy whose homes are up for sale at thirteen million dollars (\$13,000,000), who rent their vacation rentals for ten thousand dollars (\$10,000) per week. This is not equity, fairness, or good governance and that is why I feel we should receive this Bill.

Council Chair Rapozo: Well stated Councilmember Yukimura. Any other discussion? Councilmember Kaneshiro.

Councilmember Kaneshiro: I want to clarify that this is basically a tax cap that was proposed. It only furthers the inequality. I know Mr. Pierce was saying that real property taxes are going to be capped at a two fifty increase, but that is not true. It is capped at what it is. The inequality comes with the people that we capped last year at two fifty when in actuality they should be paying a higher value. That is where the inequality comes. We are saying that the folks that had big increases last year, we are capping them at two fifty, their real property taxes should be up here. For us to pass this again we are saying, although their taxes should be up here, we are going to leave them at the tax rate that they are at now. For me, that is where the inequality comes in as far as this Bill goes. I just wanted to clarify that.

Council Chair Rapozo: Thank you. Councilmember Kualii.

Councilmember Kualii: I am comfortable with receiving this Bill because in Committee, we fully considered the Bill and only the introducer of this Bill was in support of the Bill moving forward. The six (6) other Councilmembers have already decided in Committee to receive it and that was the recommendation to the full Council and I have not changed my mind.

Council Chair Rapozo: Anyone else? If not, I will be supporting the receipt as well. Mr. Pierce, you bring up some good points, but this to me was the easy way out for the Council – just cap. Just satisfy the people and cap it. Our true function is the budget and making sure, being the check and balance for the Administration, and setting the tax rates. That is our true function. This is such a simple way to do it, then we can forgo our real duties and focus on the spending and revenues. We will just cap everybody, keep everybody happy so we can spend another year without being bombarded with the phone calls. What frustrates me is the cap was removed, obviously I did not support that, but it was removed because of the inequities, and called unfair. That was the justification for removing the cap and all of a sudden, we are trying to put caps back in different ways, calling it something else. It is still a cap. This one, I think Councilmember Kaneshiro points out perfectly how the equality does not exist with this Bill. You are going to be capping people that should be paying more taxes. To me, you talk about inequity and unfairness, this is really the epitome of it, and I think this Bill should not have even been introduced but it was, we had the discussion, and this

Council has to take this real seriously as we go through the budget. Councilmember Yukimura is correct in saying earlier today that we have to look at the big picture. We cannot look at making ends meet this year. We have to look five (5) or ten (10) years down the line. I will be supporting the receipt and looking for some solutions during the budget discussions. With that, anything else.

The motion to receive Bill No. 2574 for the record was then put, and carried by the following vote:

FOR RECEIPT:	Kagawa, Kaneshiro, Kualii,	
	Yukimura, Rapozo	TOTAL – 5*,
AGAINST RECEIPT:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock, Hooser	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

(Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion).

Council Chair Rapozo: Mr. Pierce, we did get to the same place. I appreciate your input, thank you.

Bill No. 2575 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ZONING DESIGNATION FOR CERTAIN NON-ZONED LANDS

Council Chair Rapozo: Councilmember Kaneshiro, were you going to be recusing yourself on this?

Councilmember Kaneshiro: I think for this item, the land is already considered agriculture, it is being taxed as agriculture, and now they are just formally calling it agriculture. I do not see a difference unless...

Council Chair Rapozo: Okay, it is your call.

Councilmember Kaneshiro: ...other people have a problem with it.

Council Chair Rapozo: Well, it is your decision whether people have a problem or not.

Councilmember Kaneshiro: I am comfortable sitting in on it.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: I am going to ask for a deferral because I have had no time to really understand what is happening and it involves hundreds, if not, thousands of acres. I need to know the implications of it. I do see that the Director of Planning and Planning staff are here, and I do not mind having a conversation today, but I want to see those maps. I want to know exactly what we are doing with these lands. Even putting them in agriculture gives them certain entitlements. If it is correcting an error, then that is one thing, but I have not had time to really understand it. I believe that they involved a lot of the lands in both community plans, correct me if I am wrong. I do not mind having a discussion, but this is the final decision day and I would like to have some understanding of what is happening and

possibly some time to incubate the information so that I can really be clear what I am doing when I vote.

Council Chair Rapozo: If we are not ready for a second reading discussion which is a final reading discussion, then this will go back to the Committee. We are not going to have this sitting on the full Council and having Committee discussions. If you want to look at maps, then that is fine with me, I have no problem with that, but if that is the feeling of this body today, then we will move in that direction. We will take public testimony and then we will refer this to the Committee so that we can have the thorough discussion at that time. Councilmember Kaneshiro.

Councilmember Kaneshiro: Councilmember Yukimura, do you not feel that if the Planning Department came up here, you would be comfortable with their answers; you would still need more time?

Councilmember Yukimura: I do not know until I hear what they have to say and I have a chance to ask them questions. I could possibly, but I would like to see maps. I know Planning Director Dahilig sent me some information which I have not had the time to look at. I was hoping that it would be covered in Committee discussions, but there was no discussion in Committee, and I was not here. I happened to step out at that moment, and it just passed without any discussion.

Council Chair Rapozo: I hate it when that happens. That is no fun when that happens.

Councilmember Yukimura: I feel like neither I nor the Council have actually discussed it. Maybe some of you have done your due diligence and understand it fully, but I would like the courtesy for the time to understand what I would be voting on.

Councilmember Kaneshiro: I was going to say that I saw the maps, did my due diligence, we passed it without any discussion because we already did the work ahead of time, but if Councilmember Yukimura needs more time then...

Council Chair Rapozo: Councilmember Kagawa is coming back in a few minutes, correct? Was there anyone in the audience wishing to testify on this matter? If not, let us take a ten (10) minute recess, and have that discussion as far as which direction we would like to go.

There being no objections, the Council recessed at 10:50 a.m.

The meeting was called back to order at 11:02 a.m., and proceeded as follows:

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Could we suspend the rules and have the Planning Department come forward?

Council Chair Rapozo: Sure.

There being no objections, the rules were suspended.

MICHEAL A. DAHILIG, Director of Planning: Good morning, Mike Dahilig and Kenny Estes for the record.

Councilmember Yukimura: Could you tell us what this zoning amendment does.

Mr. Dahilig: As the Council is all aware, the County derives its zoning authority under Section 46-4 of the Hawai'i Revised Statutes (HRS). We are at a dual zoning jurisdiction where the Counties are able to exercise zoning jurisdiction in three (3) land use commission zones which is urban, rural, and agriculture. The dual layer zoning creates a situation where the boundaries of the agriculture, urban, and rural districts are the only areas where the County can exercise its jurisdiction pursuant to HRS 46-4. The way that we exercise spatial jurisdiction over these lands is the adoption of maps. What you see above is the overlay of all the 1972 thousand scale maps that were adopted by County ordinance, however, as we understood when you overlay these 1972 maps, and you will see these maps again for each of the districts that are overlayed on top of each other. There are still outstanding lands that are either in the urban, rural, or agricultural district that were not covered by these thousand scale maps. These are the areas that are in red. Because we have not spatially identified these lands as providing a zone for them, at this point the County does not have zoning authority on these lands. Things like the one time subdivision ordinance, things like density, limitations of use, strictly flow only from what the State regime is at this point. Only the State Agriculture Rules apply and the County does not have the authority to exercise as in Chapter 8 or regular authority on these lands. This Bill provides spatial definition to these three (3) areas to bring them consistent with our ability to exercise zoning authority pursuant to HRS 46-4 and actually hold them to the standards that other lands are held pursuant to the CZO (Comprehensive Zoning Ordinance). Because all these lands are State zoned agriculture, the County is left with two (2) options to choose for zoning, either open or agriculture. When we looked at the 2000 General Plan it is very clear that they want to migrate zoning of lands from open to agriculture. To be consistent with the policies in the 2000 plan, we have a proposed that all the lands in red receive a County agriculture designation and maps consequently will be adopted so that we can therefore hold these lands under the same CZO limitations that other agriculture lands are held under. In a sense, it is meant to clean-up something that has not been done.

Councilmember Yukimura: Right now though the land cannot even be subdivided officially because they would have to come under our subdivision ordinance, right?

Mr. Dahilig: The subdivision ordinance does not necessarily flow from zoning jurisdiction. Things like the limitation on lot size that is prescribed under HRS 205 relating to agriculture lands would be applicable at this point.

Councilmember Yukimura: Who would give subdivision approval?

Mr. Dahilig: We would give subdivision approval because subdivisions do not necessary flow as a 46-4 regulation. They are done under other regulations, and not under 46-4.

Councilmember Yukimura: Are you sure about that?

Mr. Dahilig: When you look at how to tie in the zoning limitations like the one time subdivision, we hinge back regulations under Chapter 9 which is a subdivision ordinance to the actual zoning that is overlaid. That is where

we can pair the subdivision ordinance to flow naturally from the zoning regulations. Another example would be sidewalk restrictions for subdivision block limitations. Those are tied back to residential zoning that is about six, so zones four, two, and one do not necessarily have the same subdivision restrictions. That is where by definition we tie it back to the zoning ordinance.

Councilmember Yukimura: Are you saying that you can put subdivisions in these lands? I mean, you can put sidewalks in any regulatory form in that land – I do not think so.

Mr. Dahilig: Well theoretically at this point because we do not have zoning, the subdivision ordinance operates alone. That is why we saw this as a critical need for the department to fold these lands in because if we do not have zoning authority, essentially the County is saying we do not exercise under 46-4, authority under these lands.

Councilmember Yukimura: I guess I am asking, whether you have zoning or not, if you do not have zoning you can subdivide under our subdivision ordinance, that is what you are saying?

Mr. Dahilig: That is correct.

Councilmember Yukimura: That is what this does.

Councilmember Yukimura: No, I mean, should we not say, “No subdivision unless you have the proper zoning.”

Mr. Dahilig: This is something that we will not see as a persistent problem if action is taken today by the Council because at that point all the lands that are within our authority to be zoned, have been in fact zoned.

Councilmember Yukimura: Yes, but I am thinking that you are actually giving a right. If you cannot do anything with the land right now because you do not have County zoning then by giving this zoning, we are giving some entitlements and if so, that is...and granting of entitlements is a serious thing. I just want to know what we are doing here.

Mr. Dahilig: I would say that when we look at the County’s zoning regime as it pertains to agriculture lands, the regime is a lot more restrictive than what is enumerated under Chapter 205 related to State agriculture lands. In effect what the overlay of County agriculture zoning would entail would be increasing regulation over these lands versus being a lot more permissive under Chapter 205.

Councilmember Yukimura: But that is assuming that a landowner can get subdivision rights from the State and I do not know if that is...

Mr. Dahilig: For example, even now we are a standing subdivision. If they were to go in and say, “I want to put a thousand homes on this parcel,” Chapter 205 does not have any density of limitations and if you say that they are all farm worker housing, there is again no density cap that the County puts forth in a CZO regulation.

Councilmember Yukimura: Where do you get the right to subdivide from?

Mr. Dahilig: The subdivide is again...Chapter 9 does stand alone in effect of how you subdivide the land, but the zoning authority comes as a consequence of 46-4.

Councilmember Yukimura: Okay. I would like to request a legal paper on that from the County Attorney just so that I understand the whole zoning framework.

Mr. Dahilig: Okay, sure.

Councilmember Yukimura: I am mindful of what you saying that by putting it under zoning we would be clear how we could regulate.

Mr. Dahilig: That is correct.

Councilmember Yukimura: I am still also mindful that important agricultural lands (IAL) designation notwithstanding, people can subdivide important agricultural lands just the same way they can subdivide unimportant agricultural lands and that I am guessing is going to be part of your important agricultural proposal. That we will be regulating important agricultural lands differently.

Mr. Dahilig: Once it does get to that point, and we can have that discussion with the Council as to what the findings are, it would entail certain discussions about how to limit fractionalization of land. I think that is what you are trying to get after. It is a recommendation that we, in general, when we look at the regulation of subdivision of agricultural lands, that fractionalization over time is proven to actually hurt the agriculture industry versus support it.

Councilmember Yukimura: Correct. I mean if we are talking about preserving important agricultural lands, which is a State constitutional mandate, we have to know what kind of regulations will actually affect that preservation.

Mr. Dahilig: I would agree.

Councilmember Yukimura: It is our job as local government to figure out what is the best set of regulations for protecting important agricultural lands.

Mr. Dahilig: I would agree.

Councilmember Yukimura: These lands now, if we put them into agriculture are not important agricultural lands designated at this point.

Mr. Dahilig: Some of them have partial overlays of an IAL, so I would not say that...

Councilmember Yukimura: An unofficial IAL? Which one.

Mr. Dahilig: Yes. If you look at some of the lands around Kilohana Crater and that would be in this area here. There was a petition that came forth by the landowner to put those in IAL.

Councilmember Yukimura: By Grove Farm.

Mr. Dahilig: Yes.

Councilmember Yukimura: Can you orient us on these maps and show us key landmark points that enable us to know exactly what those lands are? For example, the lower corner.

Mr. Dahilig: Again, this is Kilohana Crater here and so everything that is in this area that surrounds that land is what is set forth here, this is the Waimea River that goes up...this is Gay & Robinson land at this point.

Councilmember Yukimura: Hanapēpē River?

Mr. Dahilig: Here is Port Allen, if that gives you any bearing. Here is the road up to Koke'e. It would be the lands to the west of that road to Koke'e.

Councilmember Yukimura: Where is Hanapēpē Heights?

Mr. Dahilig: It would actually be right here.

Councilmember Yukimura: So, there is a river valley under the wording Hanapēpē/Ele'e.

Mr. Dahilig: Yes.

Councilmember Yukimura: Do you see that? What is that?

Mr. Dahilig: This area is within the jurisdiction.

Councilmember Yukimura: So that is Hanapēpē Canyon.

Mr. Dahilig: Yes.

Councilmember Yukimura: Where people stand and look out.

Mr. Dahilig: Yes. This is well *mauka* of these areas. Keep in mind here these maps are at a thousand scale. A thousand feet per inch. These are the biggest maps that we have on file when it relates to spatial recognition.

Councilmember Yukimura: Do you have in this planning document the acreages?

Mr. Dahilig: Yes, we did handout an additional spreadsheet.

Councilmember Yukimura: Can I get a copy of that?

Mr. Dahilig: I can give this one to you.

Councilmember Yukimura: Did people know what acreages they were dealing with?

Mr. Dahilig: Yes, and in fact we followed all CZO procedures, so all the adjacent landowners were notified and we did get testimony from people. We followed the Chapter 8 procedures to exercise the County's power over these lands.

Councilmember Yukimura: Okay. In the documents that we received, did it have the acreages or is that a subsequent communication from you?

Mr. Dahilig: They are all set forth throughout the maps that are in there. What we did was to consolidate the acreages, we provided a spreadsheet that Scott is copying at this moment.

Councilmember Yukimura: Were there no lands on the north shore?

Mr. Dahilig: Yes, everything within the north shore area has been at least verified to not be outside of the thousand scale maps.

Councilmember Yukimura: What is the total amount of Grove Farm lands involved here?

Mr. Dahilig: You would have to give me a second so that I can add those together.

Councilmember Yukimura: About seven thousand...

Mr. Dahilig: Just under eight thousand (8,000) acres.

Councilmember Yukimura: Eight thousand (8,000).

Mr. Dahilig: Just under.

Councilmember Yukimura: Okay. And a total of twenty-two thousand (22,000) acres to these...

Mr. Dahilig: Just over twenty-two thousand (22,000).

Councilmember Yukimura: Okay. Those are all the questions that I have, thank you.

Council Chair Rapozo: Councilmember Kualii.

Councilmember Kualii: These lands by the County are currently non-zoned.

Mr. Dahilig: Yes.

Councilmember Kualii: But they have zoning by the State?

Mr. Dahilig: Yes.

Councilmember Kualii: Are they all the same zoning by the State?

Mr. Dahilig: Yes.

Councilmember Kualii: All open?

Mr. Dahilig: All State agriculture.

Councilmember Kualii: The State has it as agriculture.

Mr. Dahilig: Yes.

Councilmember Kualii: So, the County does not even have it as open.
What is open and how is it different?

Mr. Dahilig: The State has agriculture and from there the County has two (2) choices under its current CZO to either consistently name it agriculture also, or to name it open.

Councilmember Kualii: What would the difference be? What does open mean?

Mr. Dahilig: Open, you would characterize it as open space. A lot of the agriculture usages are actually further limited to be in concert with open space principles. The main difference between open and agriculture really comes as a consequence of the density that is allowed. If you get under fifty (50) acres, there is a huge difference in the amount of residential units that you can put on the property. That is one major difference between the two choices.

Councilmember Kualii: So the number of residential units you can put on a property? So, I live in Anahola on the Hawaiian Homestead and I remember years ago looking back and seeing that a lot of lands were zoned open. There on the open lands we have homestead houses. If this land in that left most parcel, the Waimea-Kekaha, the skinny long one, those are one thousand three hundred and thirty-seven acres of Hawaiian homelands.

Mr. Dahilig: Yes.

Councilmember Kualii: The State has them zoned as agriculture?

Mr. Dahilig: Yes.

Councilmember Kualii: And the County is choosing to follow the State and designate it as agriculture as opposed to open which might leave more opportunity for Department of Hawaiian Homelands (DHHL) to do more housing. I do not know, that might be way up *mauka* with bad infrastructure and on hills.

Mr. Dahilig: Here is a unique thing about Hawaiian Homelands that you may be familiar with. I am sure you heard some characterization of this, but given the fact that the Hawaiian Homelands program was adopted as an Act of Congress and was folded in as one of the organic Act requirements of the State Administration. The State Attorney General actually has determined that anything that is considered within the jurisdiction of the Hawaiian Homelands Act, is not subject to State or County zoning. What this map or action purely does is that it provides insight to those with the Hawaiian Homelands Office as to what the County's desired policy for that lands are, but in effect if Hawaiian Homelands wanted to put a resort or something else up there, that is purely between them and the beneficiaries to decide at that point.

Councilmember Kualii: What is the reasoning, if you will, for the County's choice of agriculture versus open?

Mr. Dahilig: It again flows consistently with what the 2000 General Plan set forth. At that time, I think there were concerns about the density

bonuses that were afforded on open lands. There was a desire to migrate open lands to agriculture and that is when we chose agriculture for these lands.

Councilmember Kuali'i: I cannot really tell where exactly the land is. It looks like it is pretty far *mauka* and maybe even above the lower part of the Mānā plains which is ideal for agriculture, but I know too that there is talk about a hydro project with KIUC (Kaua'i Island Utility Cooperative), Hawaiian Homes, and ADC (Agribusiness Development Corporation); are any of those lands part of that?

Mr. Dahilig: To my knowledge, I am not familiar with where the proposed sites are for disclosure purposes. I mean it could very well be since that land is stretching along many streams that are up in that area. It could very possibly cover source or site of these proposals, but again this would have no effect on that.

Councilmember Kuali'i: Not too long ago we had some folks come here and talk to us about the Koke'e forest, and fire, and walls, that also may be in that area where they are going to plant more trees and take down the burnt trees?

Mr. Dahilig: It could very well be. Again, I am not familiar with what this area but it is slated for by DHHL, and I will say that many of the activities that you describe tend to be in concert with what DLNR (Department of Land and Natural Resources) does. DLNR, its jurisdiction is just outside of the red area and the dark green area.

Councilmember Kuali'i: It was from DLNR, I believe, that we got that presentation. Okay. But ultimately going from non-zoned to agriculture should not impact any of those.

Mr. Dahilig: Because it is Hawaiian Homelands, yes, it should not impact anything.

Councilmember Kuali'i: Okay, thank you.

Council Chair Rapozo: Any other questions? Go ahead.

Councilmember Yukimura: Just so you know where I am at, after this discussion we have just had which I appreciate, I would actually like to read the full document that came up from the Planning Commission which I apologize, but I have not had the chance to read because I have been going through both the South Kaua'i and Līhu'e Community Plans and they are quite extensive, to the Department of Planning's credit. I am going to be asking for a deferral.

Council Chair Rapozo: Is this time sensitive?

Councilmember Yukimura: That is a good question.

Mr. Dahilig: The only thing that is time sensitive about it is the fact that...if I were to get an application tomorrow for these areas, I could not do anything. It is an exposure risk for the Council whether they want zoning authority over these lands or not. How long that persists...this has been this way since 1972 so it is not as if things have happened over the past forty-three (43) years.

Council Chair Rapozo: How are these lands taxed?

Mr. Dahilig: That, I am not sure. I would suspect they are taxed at agriculture, but if you do want follow-up, I can check that for you.

Council Chair Rapozo: You are saying that there is no provision in our CZO or anywhere that addresses lands that were not zoned by the County.

Mr. Dahilig: That is correct.

Council Chair Rapozo: There is nothing that says if there is no zoning, the designation by the County reverts to a specific category?

Mr. Dahilig: To my knowledge, that is not in our Code.

Council Chair Rapozo: Is Mauna Kea aware of that? If you are not, that is fine. I do not want to bring you up for you to tell us that you are not sure. It is not fair to ask these difficult questions on the floor, but I really want to get this out but I also respect Councilmember Yukimura's request to have more time. It just seems to me that we would have some sort of designation when we charge these people tax. You are thinking that it is agriculture.

Mr. Dahilig: Because of the State overlay, they are probably taxed at agriculture.

Council Chair Rapozo: And you are saying that if someone comes in tomorrow with an application to subdivide one (1) of these parcels that they would not be subject to any density restrictions and we would have to grant the...

Mr. Dahilig: And also, somebody could build a thousand (1,000) homes up there without needing permits from our Department because we define density at this point.

Council Chair Rapozo: Because, I am sorry.

Mr. Dahilig: Because we define density under the CZO.

Council Chair Rapozo: Right, so they would have to apply for a subdivision permit.

Mr. Dahilig: If they wanted to actually subdivide out the lots for each of these homes, let us say, but if they did not want to cut up the lands in other ways, they would not have to come in for a subdivision permit.

Council Chair Rapozo: So if they just wanted to build three hundred (300) homes, right now, they could come in and get the building permits?

Mr. Dahilig: As long as they are consistent with Chapter 205. That is the only regulatory authority at this point.

Council Chair Rapozo: And our Department of Planning would have no...

Mr. Dahilig: We would essentially sign off on the building permits because it is non-zoned.

Council Chair Rapozo: That is incredible. Councilmember Yukimura.

Councilmember Yukimura: That is why I would want a legal opinion about that. Even so, can anybody do any of those things within three (3) weeks which is what if...actually it would be two (2) weeks if we just keep it in Council and just defer it for two (2) weeks. Is there anything they can do?

Mr. Dahilig: Well I guess for fear of verbally consenting as to what exactly people can do and not do in a matter of time, it is hard for me to say that the two (2) weeks will or will not matter. I cannot speak for the landowners.

Councilmember Yukimura: No, I am talking about the Planning zoning process that they would have to go through.

Mr. Dahilig: Again, that is where...even if they were to come in for building permit, when it comes to us for a zoning sign off, we would say the lands are not zoned, so we would move it on to the next agency. That is what we are trying to take care of with this Bill.

Councilmember Yukimura: Well, you could just say that the lands are not zoned therefore you cannot do anything until it is zoned. That is why I want the legal opinion to see what the situation really is. I do not think anything is going to happen in two (2) weeks. I am hoping that I will at least have time to do my due diligence.

Council Chair Rapozo: Any more questions for Planning?
Councilmember Kaneshiro.

Councilmember Kaneshiro: Can you confirm...I know that those lands are being taxed as agriculture and you folks are basically saying you want to zone the land as agriculture because there is a gap...do you see any reason we need to defer it any further?

Mr. Dahilig: I think that is a discussion for the body at this point. I think for us the issue is very simple, cut and dry. We have been in consultation with the County Attorney's Office when we were crafting this Bill and how to essentially plug this hole. Just to reiterate, we have a very comprehensive, Comprehensive Zoning Ordinance but we cannot apply any of those regulations without a map that says where those laws have to apply. For these lands, we do not have a map that says, "Those laws apply to this."

Councilmember Kualii: I have a question.

Council Chair Rapozo: Sure.

Councilmember Kualii: If you look at that map, the lands all around that area, right, because you are saying the stripe there is only, right?

Mr. Dahilig: Yes.

Councilmember Kualii: For example, the piece way up there in Waimea/Kekaha, *mauka* of that in the green and *makai* of that in the light green, the County has designated as agriculture?

Mr. Dahilig: No, those are actually outside of our zoning authority. Those fall with...

Councilmember Kuali'i: State, conservation...

Mr. Dahilig: Yes, exactly. Anything in the yellow, light green, or the purple are within our ability to zone based on State overlays.

Councilmember Kuali'i: And those three (3) areas are all the lands left that could and should be under our jurisdiction that does not have zone?

Mr. Dahilig: This is a one-time thing. This should not happen again.

Councilmember Kuali'i: That was missed and should not have been missed in 1972.

Mr. Dahilig: Yes. It is a consequence of the technology, at the time.

Councilmember Kuali'i: Okay, thank you.

Council Chair Rapozo: Any other questions for Planning? If not, thank you very much. Anyone in the audience wishing to testify? Mr. Taylor.

Mr. Taylor: I see on this one (1) document that was passed out that at least six (6) of the properties under consideration here are Grove Farm properties. I cannot help but believe that Councilmember Kaneshiro has a perceived conflict of interest in dealing with this issue. It is unfortunate that when these perceptions come up that you folks do not take the initiative to address the problems. It should not be up to the public to have to continue to raise these issues but there is a perceived conflict here and I think it needs to be addressed. Thank you.

Council Chair Rapozo: Did you have a question or a comment?

Councilmember Kaneshiro: Question.

Council Chair Rapozo: Go ahead.

Councilmember Kaneshiro: Mr. Taylor, these lands that are not currently zoned with the County are being considered agriculture right now and being taxed as agriculture, and we are basically coming in to make a decision to say, "We want the County to call it agriculture," where do you see that the conflict is?

Mr. Taylor: It is my understanding that you are employed by Grove Farm. The fact that this issue just deals with properties that belong to Grove Farm, I am not saying that you have a conflict, I am saying that you have perceived conflict and under the circumstances, you have to excuse yourself, I am sorry.

Council Chair Rapozo: Thank you. Anyone else?

Mr. Rosa: A lot of these classifications, land for agriculture or whatever, some of the best agricultural lands that are located right in the Lihue area, and from what I heard going up to overseers, some of the best agricultural lands are *makai* of Kūhiō Highway to the airport. The land going towards Kilohana are marginable, maybe Arryl can tell you that because in Kilohana slopes, the Planation used to plant cane – unirrigated and used to take twenty-four

(24) months or two (2) years to harvest whereas irrigated cane would take eighteen (18) months. Kilohana has unirrigated cane as they are not the best agricultural lands. You need to get it clarified what is prime agricultural lands. Kilohana planted pineapple where they did not need much irrigation, so you could plant pineapple. Grove Farm used to rotate pineapple and sugarcane to enrich the soil at Kilohana. They will have to get things like that from the plantation records and Grove Farm and see where the prime agricultural lands are. On top of that, the irrigated cane lands, you need water to have agriculture to survive and the plantations had their own water systems. They dug tunnels that came out of Kilohana Crater, Līhu'e Plantation supplied the demand from their of reservoir and also the Ahukini down here to maintain their prime agricultural lands. Now, if you want people to farm on agricultural lands, you cannot charge them domestic water rates. You have to maintain those reservoirs and water tunnels. Those are the kinds of things to consider. Just talking about classifying, you are not accomplishing much. Do you want to preserve agriculture, you have to preserve the agricultural lands and supply the water. I think you should not be using domestic water systems for the farmers. One of the things I look for, whoever buys those lush acres of land, what is the reason for their investment? Is it going to be for agriculture, which I am pretty sure it is not because they are paying the price for agricultural lands. They have some intentions for using it for residential or commercial. They will not be only paying taxes for it and also if the taxes should be charged accordingly, their intentions are for commercial, residential, or agriculture. Thank you.

Council Chair Rapozo:
Anyone else?

Thank you, Mr. Rosa. I appreciate that.

The meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: I will not be supporting a motion to defer if I do not hear what would be accomplished with a deferral. As I see and heard from the Director of Planning and Kenny, I looked with my eyes, I see that these are lands that are being zoned agriculture that are abutting or adjacent to current agricultural lands. A lot of it, as we heard from the Director of Planning, is already being used and taxed as agricultural lands. This was missed years ago and it should have been classified as agricultural lands. I heard during Bill No. 2491 that we need more agriculture and more availability of agriculture. It makes common sense that we had plantations way back when we were born and abutting those agricultural lands, and they have irrigation, it makes sense. It is not like we are spot zoning agricultural lands away from agricultural lands and we should be concerned that we are just naming it and not intending to use it for agriculture. It is being used and should be available to support agriculture. People of Kaua'i want to see more agriculture, jobs, food production, and food contesting or whatever it may be, instead of just relying on the visitor industry. I think it is something that we all deep inside want. I will be supporting this motion. I think it is in line with what the State sees it, what it is being used as, and the area that it is located. I really see no problem with it. Councilmember Kualii raised a good question, how does it affect Hawaiian Home Lands? That is my only concern, but he asked the questions and I got satisfactory answers that Hawaiian Home Lands have powers to do whatever they want to do and whatever they have approval to do within their commission to supersede any zoning that is accomplished in this Bill, therefore, I will be supporting the Bill, but if I hear a compelling reason such as what will be accomplished with deferring, I will support that because it makes sense. I support the Planning Department in trying to correct something that was not seen and should have been seen years ago. Thank you.

Council Chair Rapozo:

Anyone else? Councilmember Yukimura.

Councilmember Yukimura: I have another question as I have been surveying the minutes of the Planning Commission that I would like to ask the Director of Planning.

Council Chair Rapozo: Mike. I am going to allow this, but I am going to take a vote. We will vote on this today. I had earlier said that if we were going to defer, we will defer, and have the discussion in Committee. The choice was to move forward so we will be voting today.

There being no objections, the rules were suspended.

Councilmember Yukimura: Mike, on the minutes of the March 25, 2014 Planning Committee Meeting which you sent up to us, it says that Commissioner Blake asked to clarify that if it is not zoned it means nothing can be done with it or that anything can be done with it. Mr. Jung said that he would look into that and will brief the Commission at the May 27 meeting, did you or the Commission get such a briefing?

Mr. Dahilig: At the meeting on May 27, 2014 the Planning Commission took action and approved the amendment and recommending it forward. From what I understood is that the research was done, I do not have the minutes of the May 27th meeting in front of me, but what happened is that this Bill got enrolled to the Council quite a bit ago, but there was an issue concerning the maps and there was a subsequent action that was taken one more time by the Planning Commission on November 5th. There was a May 27 meeting, and a discussion that transpired from that meeting. The Bill went up to Council, the Bill was then sent back to the Planning Commission to clean up the map issue that Advisor Morimoto had advised the Council concerning that and then it got approved and then reenrolled back up to the Council again.

Councilmember Yukimura: You did not answer my question. Was there a briefing on the question of Mr. Blake?

Mr. Dahilig: I do not have the May 27 minutes in front of me, all I have is an understanding that the Planning Commission, the first time around did take action on the May 27 meeting, but I do not have...

Councilmember Yukimura: Even if they took action it does not mean that they had a briefing on that question.

Mr. Dahilig: Right and that is all I have at this point.

Councilmember Yukimura: That is the question I am asking because if it is giving entitlements then Councilmember Kaneshiro is going to be in conflict of interest, if it is giving entitlements to eight thousand (8,000) acres of Grove Farm land. I am trying to understand the implication of this action.

Mr. Dahilig: If I were to characterize what the action is, it is not a permissive entitlement, rather the exercise of a County agency requesting to use its police power over land.

Councilmember Yukimura: Okay, but Mr. Jung is the attorney that was asked that question, the County Attorney's Office and I would like an opinion from the County Attorney's Office.

Mr. Dahilig:
Councilmember Yukimura.

That is certainly within your prerogative,

Council Chair Rapozo: Hang on real quick, let me ask a question. Is Ian Jung available today because whether or not it is in the minutes, I have to believe that you must remember what was said. I have to believe that based on what your comments were this morning, that Ian's position was that they can do whatever they want with the land, and they do not have to get Planning approval if it is not zoned. That is what I heard and I am not asking for an opinion from you, Mauna Kea, I am just wondering if Ian is available and we can give him some time. I want to resolve this issue today.

MAUNA KEA TRASK, County Attorney: Thank you because I do not know.

Council Chair Rapozo: I appreciate you being honest – that is why I like you.

Mr. Trask: I do not know if there was an opinion drafted or provided on the floor to the date referenced to the Planning Commission by Mr. Jung. Mr. Jung is not here today at work.

Council Chair Rapozo: Oh, he is not, okay.

Mr. Trask: I have been listening to the conversation, if I can have a moment at the break or later on today, to look at these issues, I might be able to help you today. We can look at the minutes, can we look at the minutes?

Council Chair Rapozo: Any more questions for Mauna Kea?
Councilmember Kagawa.

Councilmember Kagawa: I have a process question. Can we push this until after the public hearing and see if we can work it out, if not, and questions need to be answered then I am okay with the deferral. I just needed to hear a reason why we are deferring it. Not to defer and really not have any better solution or what have you at the end of the day. I am willing to push it to after the public hearing.

Council Chair Rapozo: Councilmember Yukimura, do you have questions for them, if not, I am going to release them.

Councilmember Yukimura: No, thank you.

The meeting was called back to order, and proceed as follows:

Councilmember Yukimura: I want to answer Councilmember Kagawa's question about why I would need a deferral because I do not know what I do not know and it is in reading all of this and coming across this that tells me that there was...the same question I asked was asked by a Planning Commissioner. There was a promise to get back to him and I am just asking what was the answer. That is why I want to go over all these minutes. That is my reason.

Council Chair Rapozo: Any other discussion? I want to resolve this issue today. I think this is the...I do not know if it is the second time today that Councilmember Kaneshiro's issue with a conflict has come up, but that is for

Councilmember Kaneshiro to determine. Whether it is Grove Farm, A&B (Alexander & Baldwin, Inc.), G&R (Gay & Robinson), we are cleaning up a mistake that was done from 1972. We have lands on this island that are not zoned. I can tell you if you came up, Mike, and asked me to rezone these lands to resort, we would have a problem. If you came up and told me that you wanted to rezone these lands to commercial or residential, we would have a problem. The State already zoned these lands agriculture, and we need to do our job and zone these lands. Now, the only reasonable zoning designation this County has at this moment is agriculture. I cannot believe we are arguing and saying, "No, we do not want you to do agriculture. We do not want you to zone it agriculture." Whether Grove Farm has an entitlement – I do not see the entitlement. It is rezoning the land. When we rezone the land, you know what we do, we put density restrictions on the land. If Grove Farm wants to build a resort, they cannot. They have to come in for rezoning. We know that because that is what the law says. We are cleaning up a mistake that was done – or an oversight, I am not going to say it was a mistake, it was an oversight. They come up and say, "We want to make it right, we want to coincide with the State, and we zone it as agriculture." But what about Arryl, he works for Grove Farm. Hang on, time out, this must be something nasty going on because he works for Grove Farm. It frustrates me. It is no secret that he works for Grove Farm. We have to zone the land. We have to zone the land. What entitlement...you know let me say this...we are coming up to property tax time, I do not know if all of us, but I know most of us own homes. We are directly impacted by the tax rate we set for residential properties; does that mean we have to sit back and say nobody can vote? This is a housekeeping measure, in my opinion. If anyone wants to file a complaint because Councilmember Kaneshiro voted for it, go for it. I can tell you I do not understand the conflict. The fact that he works for Grove Farm and the land is going to be rezoned from no zoning...I can see if it was up-zoned because it will create more value, that is a benefit. In this case, there is no benefit, absolutely no benefit. I am with Councilmember Kagawa, unless I hear a compelling reason to prolong this then I am voting to support the measure. Councilmember Kaneshiro.

Councilmember Kaneshiro: Again, I was going to say that the land is classified by the State as agricultural land, the land is being taxed by the County as agriculture land, the land is being used as agricultural land, and now we are here – the County wants to go and say it is agricultural land. I guess it goes two-fold, and to answer Ken's question, do I think I have a conflict? No, it is all agriculture. There is no conflict. We are not getting any other value. If we were, like Council Chair said, going to zone it commercial, residential, or industrial – yes, I would step off. We are basically keeping it the same and naming it what it is being used for. I do not really see a conflict and then to go back to Councilmember Yukimura, you know, I really want to know the reason for the deferral. We are basically...to me, I also think it is just a housekeeping measure, but if there is something you really feel is holding us back from being able to move this forward, please let us know. With the Director of Planning here answering our questions, I mean, I did my due diligence ahead of time. I need more information on why we should have to defer something that is, to me, a housekeeping measure.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: I think this looks like a correction of an error, a ministerial thing, I am just wanting to be sure. I am just wanting to be able to read all the information. This does involve twenty-two thousand (22,000) acres. It is not like it is a one acre piece somewhere that we are just dotting an "I," it involves a lot of land. All I am asking is for time so that I can read everything and understand everything, and get answers to my questions. I was not the only one who asked the

question, looks like at least one of the Commissioners asked, apparently, there was a promise to answer it, and I am just wanting to get that answer – among other things. I do not know if there is anything else I should ask about because I have not...well I think I have during the discussion, I looked at most of the supporting documents, and maybe there is nothing else except that. I guess I am just asking for the courtesy to give me time to read it and I think to no harm. If this is not a matter that affects Grove Farm that much, then what harm will it do to defer it for two (2) weeks? If it is just a ministerial thing, what harm will it do to defer it for two (2) weeks?

Council Chair Rapozo:

Councilmember Kaneshiro.

Councilmember Kaneshiro: Councilmember Yukimura, I appreciate you wanting to get all the information and I think you mentioned courtesy and for me, I am also thinking about it as a courtesy to us. I spent time looking at this and getting comfortable with it, so the courteous thing would have been for you to have done the same thing and get the questions out ahead of time. But for you to be asking us to give you courtesy now when we are at the final moments, it is a stretch, but I just want you to be sure that if future stuff come up, that you do your homework ahead of time.

Councilmember Yukimura: Excuse me. I have been lobbying at the Legislature two (2) or three (3) days a week. You have not because you are recused. Maybe you have been in the South Kaua'i Community Plans, so you know it, but I have been looking at it for the first time and the Līhu'e Community Plan. I have not been twiddling my thumbs. We have had those community plans before us, so I had to do the homework on that. One (1) deferral is not asking a whole lot.

Council Chair Rapozo: Okay, like I said earlier in the meeting, if we were going to defer this matter, we were going to take public testimony, and we are going to refer it to the Committee. Councilmember Yukimura asked to have some discussion here, she wanted to see the maps, she wanted to have the discussion, and that occurred. Now, we did it that way because I wanted to get this disposed of today. I am going to leave it up to these members. I am inclined to support the approval because I heard, read, and seen enough. I tell you what concerns me, a statement that was made...if there was an entitlement, Councilmember Kaneshiro should not vote. We are not here as the "police" for Councilmembers Kaneshiro, Kagawa, and Yukimura. We are here to address the County's issues. That is what we are here for. I am not going to judge; I am not the Ethics Commission. Like I said earlier in the day, that is his *kuleana*. If he believes he has a conflict, he declares it, and steps out. That is not for us to say. That is the members' responsibility. The facts, data, information, testimony is taken – we move. If the general consensus of this body is that we need more time, then we need more time. If one (1) member for whatever reason, and I respect Councilmember Yukimura's declaration of her going up to Honolulu and testifying, she has, she has been up there a lot. I was up there yesterday, I am up there a lot as well, and her presence is noticed up at the State. She has been very aggressive up there so I respect that, but also we got work to do here. I will leave it up to the body. We do not have a motion and we need a motion. I am not going to allow any more discussion, Councilmember Yukimura, you had three (3) times...you were responding to Councilmember Kaneshiro...

Councilmember Yukimura: I was responding to questions every time I spoke.

Council Chair Rapozo: It does not matter. When you raise your hand and you speak, and you get recognized, you are utilizing your time. I do not want to go down that road. I need a motion at this point.

Councilmember Kagawa: I said that I would be willing to wait until after the public hearing, just so that she can get that question answered. I am sure Mauna Kea can get a hold of Ian, ask him if Commission Member Blake was briefed, she just asked a simple question. He said that he needed time to get that done. I would give Councilmember Yukimura that courtesy to get that question answered. If you can get that answered after lunch, that would be great, then we can perhaps satisfy her that they did answer that question that she wanted answered. I do not want to slam it down when I said that I would wait for that question to be answered. If we can just hold off until after the public hearing on this, I am willing to do that.

Council Chair Rapozo: Okay, well I will entertain a motion.

Councilmember Kagawa moved for adoption of Bill No. 2575 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Yukimura.

Council Chair Rapozo: Let us take a break. We will be back at 1:30 p.m., we will have the public hearings, and then we will reconvene this meeting immediately following the public hearing.

There being no objections, the Council recessed at 11:57 a.m.

The meeting was called back to order at 1:45 p.m., and proceeded as follows:

(Councilmember Chock was noted as present.)

Council Chair Rapozo: Again, we are in discussion for Bill No. 2575.
Councilmember Yukimura.

Councilmember Yukimura: Can we ask the County Attorney if he has an opinion?

Council Chair Rapozo: Sure.

There being no objections, the rules were suspended.

Mr. Trask: What I was able to do over the lunch break, and thank you for the opportunity, I checked with the Planning Department and reviewed the minutes from May 27, that of which Commissioner Blake had requested an input from the County Attorney's Office. It looks like Mr. Blake was not present at that meeting, he was excused, and I believe he has been excused ever since. Mr. Jung is not on island right now and I was unable to contact him. I did review the...I had an opportunity to speak with Councilmember Yukimura, and I did review the Kaua'i County Code, HRS Chapter 205 development portions related to this question. I am prepared to answer any questions or give a little comment about what I think as far as this issue goes, if that is okay, and then you can have questions for me after.

Council Chair Rapozo: Proceed.

Mr. Trask: First off, just to contextualize everything. Section 8-1.2 of the Kaua'i County Code specifically – Chapter 8 is the CZO, Article

1, the purpose of the Comprehensive Zoning Ordinance is for the following: a) implementing the intent and purpose of the General Plan; b) regulating the use of buildings, structures, and land for different purposes; c) regulating location, height, bulk and size of buildings and structures, the size of yards, courts and other open spaces; d) to maintain the concept of Kaua'i as "The Garden Isle," thus assuring that any growth will be consistent with the unique landscape and environmental character of the Island; e) to insure that all physical growth is carried out so as to maintain the natural ecology of the Island to the extent feasible; f) to create opportunities for a greater fulfillment of life through the development of a broad spectrum of educational and cultural pursuits; g) to promote and protect the health, safety and welfare of all residents; h) to provide opportunities for desirable living quarters for all residents in all income levels; i) to recognize those aspects of the Island and its people which are historically significant, and to preserve and promote them as a continuing expression of the Island's physical and social structure; j) to guide and control development to take full advantage of the Island's form, beauty and climate, and preserve the opportunity for an improved quality of life; k) to protect, maintain and improve the agriculture potential of land located in the County. The purpose of the CZO and zoning regulations on the island was to fulfill those intents. How you use it, the follow up question, but that is the purpose of zoning property in the County of Kaua'i. Section 8-2.2 Method And Effect Of Establishment Of Districts, any of the districts listed in Section 8-2.1, which is the various zoning districts: residential, resort, agricultural, et cetera, are or maybe established for any portion of the County in map forms as provided in this Section. That is why we are here today regarding the maps. "D" upon adoption of any district, which is what this would be, as a part of the "Zoning Map," the land thus defined shall become subject to the specific regulations for all of the districts in which it is located and to the provisions of this Chapter and except as otherwise provide, and then it goes through a general restitution of other materials that are not related at this point. That is the County's treatment generally and what is permitted in County agricultural zoned land, general permitted uses are agriculture uses: farming, ranching, diversified agriculture, and accessory uses as well, like storage containers, things you used to see – sugar type processes, et cetera. If you look at State zoning, State Land Use Designation areas, the designated authority as far as that program is the Board of Land and Natural Resources; however, State agriculture use districts have use guidance and restrictions generally under 205-2 and 205-6. There are really similar to what the County does. Again, largely agriculture and then accessory structures. There is also a special permit system under 205-6 whereby landowners can go for special permits and other uses and they actually to the County for those permits. The County largely presides over that program. Also, under 205-12 enforcement, the appropriate officer, agency charged with the Administration of County zoning laws shall enforce within each County the use classification districts adopted by the Land Use Commission. The restrictions on use and condition related to agriculture districts. Under 205-4.5, and shall report to the commission of violations, so the Planning Commission is that authority and the Planning Department and that is generally how that program works. There is a dual overlay structure in Hawai'i. On that alone, and I looked up entitlement within the Kaua'i County Code, entitlement does not appear as a term in the Kaua'i County Charter, specifically in the Ethic section. It does not mention anything about entitlements. The Kaua'i County Code only mentions it secondarily when you looking at ADUs (Additional Dwelling Units), so it is not a term really. I looked up the definition of entitlement as it is normally used. The entitlement is defined as the fact of having a right to do something, the amount to which a person has the right. What does this action do? Well, it designates State agricultural use land, district land as County zoned agricultural land. That is what it does. You put on the County map lands that are not currently on the County map. You have now an extra layer of regulation and overlay, the County zoning ordinance on that land,

and I do not think that gives it any entitlement as defined by the dictionary. I think it creates a process and a regulatory process but it does nothing more than that. What you are doing is...it is a question of best practice. What should the County be doing? The question for you, as policymakers, today is you have legislative authority over all lands and people in the islands of Kaua'i and Ni'ihau. The Department of Planning can have zoning authority over all lands of Kaua'i and Ni'ihau, clearly when they are putting on maps. Is it best practice therefore to zone all the lands within the County under County zoning laws...I mean that is pretty much it. The Department of Planning, I can see their point, it makes it easy for them...there is a question of density. The State Land Use Designation Program does not address density, so there is a bunch of hypotheticals whereby a developer could CRP a bunch of stuff because a CPR regulations are contained within County zoning. I had a discussion about that with the Department of Planning. That is kind of where we are at. I do not think it converse an entitlement because a permit would be an entitlement. If you have any further questions, I would be happy to try and answer them.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: A best practice is a policy issue, is it not? It is not about a legal issue.

Mr. Trask: I guess that could be said, yes.

Councilmember Yukimura: Okay. So does the fact of zoning give any rights to a landowner?

Mr. Trask: If something is zoned, it gives you due process rights to know what is and/or is not allowed on the property.

Councilmember Yukimura: When something gets industrial zoning, do they not have the right to do things that other zones do not have the right to do?

Mr. Trask: Well industrial zoned property have all rights that you can zone industrial for.

Councilmember Yukimura: So, does industrial zoned property have rights that other zoned properties do not have?

Mr. Trask: It may have some. I would have to look at the specifics.

Councilmember Yukimura: Okay, when somebody gets a resort zoning, do they not get other rights that they would not have if they do not have resort zoning?

Mr. Trask: Let me answer that question, and thank you for the opportunity, however first off, I want to make it clear that we are not talking about either industrial or resort zoning, in this case. The reason I make this point is because I do not want any of my answers to be misconstrued and used to support a false analogy, so with that, yes, resort zoning will allow you to do resorts whereas agricultural zoning will not.

Councilmember Yukimura: Okay, will agricultural zoning give any rights to do what State agriculture zoning does not give right to do?

Mr. Trask: I would say generally no they are pretty much aligned.

Councilmember Yukimura: I want to know, not generally, but if there are any rights given by County agricultural zoning that are not granted by State districting.

Mr. Trask: Okay.

Council Chair Rapozo: Any further questions?

Councilmember Yukimura: I think he is trying to get an answer, right?

Mr. Trask: I got the answer, yes.

Council Chair Rapozo: He is using the internet. Are there any other questions?

Mr. Trask: I can answer that question right now. Under 8-2.4(q)(1) this is all County zoning, the following are permitted uses on County uses on County agricultural zoned land: accessory structures and uses, aquaculture, diversified agriculture...

Councilmember Yukimura: You do not have to...we just have to know that there are two (2) categories, right, permitted uses on County, that is one, right? Are those uses permitted on State designated lands?

Mr. Trask: I would feel comfortable generally saying yes, but if you want me to get specific, I am going to have to read each and every permitted use in the County and then read each and every permitted use in the State. But I can tell you generally in agriculture on State SLUD (State Land Use District) is the same as on agricultural/State CZO. It is for agriculture and accessory agriculture uses.

Councilmember Yukimura: Okay, well I do not think you need to read everything on the list, maybe you can just look at the two (2) list and tell us if one thing is not on the other list.

Council Chair Rapozo: Do you need some time, Mr. Trask?

Mr. Trask: All I can do is read it...

Council Chair Rapozo: Yes, I know and I am not going to sit here and wait for you to read it, if you need some time, I will give you the time.

Mr. Trask: I am comfortable to say that the generally permitted uses in SLUD agriculture, as it is stated, are the same as the County CZO and also too under the State regime, you can get a special permit for uses other than what is clearly allowed on State agriculture, and you have to get a special permit which then you go to the Planning Commission to get. It is generally within that. If you have dual zoned lands, that is different, not this case because this would be agriculture/agriculture. But, if you had agriculture/open or something else, then the County Department of Planning would have to look at how to accommodate both of those uses. I do not think there is much of a difference.

Councilmember Yukimura: Okay, I have another question. Does a County agriculture zoning give the option of a permit of doing something that is not doable if there is no County zoning?

Mr. Trask: On State agriculture?

Councilmember Yukimura: Right.

Mr. Trask: Okay. I will read this, 205-6 Special Permit states, "Subject to this section, the county planning commission may permit certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified. Any person who desires to use the person's land within an agricultural or rural district other than for an agricultural or rural use, as the case may be, may petition the planning commission of the county within which the person's land is located for permission to use the person's land in the manner desired." Now, I see that generally as the same. The State special permit process is generally the same as the County use permit process. It is not totally the same, but there is a process to use if otherwise because we are dealing with real property here and as you know the use of real property is only reasonably regulated under the police power. There has to be a process and a none arbitrary and capricious basis for which to regulate land.

Councilmember Yukimura: So, the answer to the question is no?

Mr. Trask: Well, there is a process provided for each. Again, without specifically going through each and every use, permit use versus special permit use, and going through the analyst test for each of those specific uses, I would say generally to answer your question, it is just the State regime and the County regime and what the County wants to do is put it on top. Put County zoning regulations there as well.

Councilmember Yukimura: The answer to the question is not known if there is something that can be done under County zoning that cannot be done under State districting.

Mr. Trask: Okay, so let me try this then, in looking at the use permits, I would think that a landowner would have a good argument to request for a special permit to conduct uses that the County allows under a use permit for County zoned land on State land, that is not County zoned land. For instance, on County zoned property, you can get a use permit for development of campgrounds. Now, if you look at State land use district...let me change that...on County you can get a use permit for farmworker housing, so that is 8-2.4(r)7 use permit farmworker housing. If you look at the State 205-4.5(a)(4) farm dwellings are allowed, employee housing, farm buildings, or activities, or uses related to farming and husbandry.

Councilmember Yukimura: So, why do you not talk about campgrounds?

Mr. Trask: I could not find the campground. I just saw the farm dwelling at this point.

Councilmember Yukimura: Okay. My point is, I do not think you can really answer my question without doing some research, if you choose to...and I do want to request a written County Attorney opinion on this whether this thing passes or not, today, because I want to know the answer.

Mr. Trask: What is your specific question again?

Councilmember Yukimura: Whether County zoning gives an option for doing something that is not doable if there is no County zoning on State agricultural land?

Mr. Trask: Can you please just specify which use, because if I have to go through every single use, it is an inappropriate use of County Attorney time.

Councilmember Yukimura: No, because if there is any use then there is a right that is being given by County zoning.

Mr. Trask: I think that is your opinion but...

Councilmember Yukimura: I know that is my opinion and I want it to be either validated or totally invalidated by a legal opinion from the County Attorney.

Mr. Trask: I am not going to be able to give you a legal opinion unless you at least specify some better uses because I cannot go through every single use and go through an analysis.

Councilmember Yukimura: Alright, well I will follow-up with at least three (3) uses.

Mr. Trask: I appreciate that, thank you very much.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Any other questions for the County Attorney?
Councilmember Kaneshiro.

Councilmember Kaneshiro: Like in this case, if something is not regulated by the County – is an activity permissible, say agriculture, even though it is under State zoning agriculture?

Mr. Trask: It helps to look at specifics sometimes and in this case, State SLUD agriculture is generally for agriculture. So, you are going to be able to do agriculture on it with or without a County permit. If the County overlay of zoning goes on to agriculture as well, you are still going to be allowed to do agriculture without a permit. Now, other uses...there is a special permit process and a use permit process to accommodate those, but generally you are going to do agriculture no matter what. Now, whether it is good agriculture or bad agriculture, I do not know, but agriculture is agriculture.

Council Chair Rapozo: Any other questions? If not, thank you very much.

The meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Any discussion? Because of the circumstances of this issue, we will reset everybody's time to start...with that, Councilmember Chock.

Councilmember Chock: I just wanted to get a better sense from Councilmember Yukimura about her question and where it might pertain to this specific Bill. I am not clear exactly where you are trying to go with this.

Councilmember Yukimura: And this is an answer to a question, it is not my time for comment, Chair.

Council Chair Rapozo: Yes.

Councilmember Yukimura: Thank you. Councilmember Chock, it started out by my asking for a deferral because I did not have time to read all the minutes of the Planning Commission Meeting and the whole document that came up to us. Based on the discussion so far people do not want to give me the courtesy for a deferral for two (2) weeks. One of the questions I wanted to ask was whether there are any entitlements in this zoning action that we are doing that we are giving entitlements to the landowners because if they are, there are issues of conflict of interest with Councilmember Kaneshiro. Contrary to what the Chair says, it is, and I am reading the ethics part of the Charter, "The Mayor, the Council, and the Board of Ethics shall be responsible for enforcement of provisions of this article." It is not just a matter of the individual Councilmember deciding whether they are in conflict or not. I just want to know what is the implication of our action here for my decision making though it is very logical, as the Chair pointed out, to go from agriculture to agriculture. I can understand and appreciate the fact that we are correcting an oversight that was done long ago. All I am asking for is the time to understand the implications of what I am doing and come to a decision about what to vote for. There has been a lot of assumptions that I am opposing this, but I am not, I am just asking for time to do my due diligence. In the process of doing my due diligence, I raised a question that was raised by Planning Commissioner Blake which was, "If we do this, does it give people entitlement to do more than what they can do now." I am presuming that Mr. Jung prepared an answer which he said he would do at the next meeting, but because Mr. Blake was not there I guess it was not raised. I think it is a legitimate question to ask the County Attorney's Office. County Attorney Mauna Kea Trask has done a valiant job in trying to answer it, but I think it is more complex than a simple answer off the cuff can give. That is why I have asked for a deferral.

Council Chair Rapozo: Any other discussion? Councilmember Kagawa.

Councilmember Kagawa: Again, the question of this whole approval is, to me, whether or not we rather leave the lands non-zoned or whether we want to put it in the classification that best fits these lands. Councilmember Kaneshiro clarified that and he did not have to disclose what Grove Farm is doing on the lands, but he said that they already pay the agriculture rate real property taxes on it, they are using it for agriculture, so I do not see any additional benefit, in my mind, that Grove Farm would get by getting these lands zoned in the manner that they have been taxed and used. I always thought, and I am repeating myself, but the more we can get the landowners to keep lands in agriculture the better. We should have a problem when the big landowners come up to rezone agriculture to residential, resort, or what have you, but they have the lands and sometimes we need to grow – it is called progress. Those approvals need to be made for one reason or another. In this case, I am clearly ready to approve a bill that for me makes sense. Councilmember Yukimura's question could be answered. I would advise the Council that we keep those opinions in Executive Session. We do not want to encourage improper usage of County lands, find any loopholes, and tell the whole public, "You have one case here and you can copy it." Whatever opinion we get, let us use that and hopefully make better decisions

going forward, but at this time I think the right decision is to approve and to put these non-zoned lands in classification for open lands is best suited for what I feel is right for the island.

Council Chair Rapozo: Thank you. Anyone else? Councilmember Kaneshiro.

Councilmember Kaneshiro: I think Councilmember Yukimura's questions are coming up because of the conflict of interest and not so much whether she is going to approve or disapprove of this thing going forward. Again, I can say from my part, the State has it classified as agriculture land, the land is being taxed as agriculture land, and it is being used as agriculture land. We are basically taking a property that does not have a County zoning designation for it and we are going to call it agriculture land. For me, unless Councilmember Yukimura thinks that it should be zoned something else, if she wants to say let us zone it residential or something, then I would definitely come off of the decision. It is in agriculture land, it is going to stay in agriculture land, I mean I am willing to stay on and take the vote. If an ethic complaint is going to come up, then it will come up.

Council Chair Rapozo: Thank you. Anyone else? Councilmember Yukimura.

Councilmember Yukimura: It is not about agriculture use and agriculture land because what about campgrounds, ziplines, or all-terrain vehicles (ATVs)? Those will be the ones that I ask the County Attorney to look at in terms of whether County zoning gives that right which State agriculture does not. There could be a conflict of interest and actually, I think, based on the past two (2) decisions of the Ethics Board, you should at least ask the Ethics Board first and this thing could pass without your vote – it would go fine. I just want to say that there were many times where I or others have extended the courtesy of a deferral to anyone of us who asked for it. Even though we were ready to vote for it, another Councilmember was not ready to, for whatever reason, and because it was not urgent to vote on it was deferred. We never required justification, we did not assume that a person was going to vote for or against it, we recognized that the person needed time to decide how they wanted to vote. Even though it seemed apparent to us that the right way was to vote one way, we deferred to people to give them time to do their personal due diligence. That is all I am asking for. I may come to the conclusion you all are coming to, I do not know why there is some assumption that I came to a different conclusion, but I feel it is important to do my due diligence. I think I raised some legitimate questions and we could have decided to defer in two (2) minutes at this meeting, let me do my work, come back, and vote in two (2) minutes if that courtesy would have just been extended. It is just about courtesy and respect, in my opinion.

Council Chair Rapozo: Anyone else?

Councilmember Kagawa: I just want to say that part of the...and I learned this at the break, but when a part of her answer was not maybe addressed unfortunately because Mr. Blake stopped attending the meetings and perhaps it was not important to any of the other Commissioners to get that direct answer. It was not a planned thing that he avoided to answer that question. It is unfortunate that he took a break, so I do not know if delaying it, that question will not be answered, so what do we do, just defer it forever? We cannot go back in time. It was not about the Planning Commission avoiding that issue. It was important to Mr. Blake, but he was not there and is no longer there, and never attended anymore meetings.

Councilmember Kaneshiro: As far as these lands go, Councilmember Yukimura keeps bringing up my conflict of interest, but I am not a director, officer, or anything...I know our rules have it where you have to be a director, officer...I am not any of those for Grove Farm. I think her issue is more of a conflict of interest issue versus letting this move forward. For me, it is a simple matter and more of a housekeeping item. I was thinking that Grove Farm and all these other companies that have land in this area probably have more rights now before we put our agriculture designation because they do not need to do anything with the County. The Director of Planning said that they can come in tomorrow and try, and subdivide it and there is nothing the County can do. I think we are actually putting more restrictions on the property now by simply doing what is a housekeeping item. State has it as agriculture, the County should put it as agriculture. That is all I can say.

Councilmember Kualii: From the very beginning when our Director of Planning explained this further and from having gone through all of the materials, I am happy to accept that it is a housekeeping measure and it is about the maps. It was an oversight from the 70s and this is correcting it, and it is agriculture, already agriculture by the State, and now County is taking non-zoned lands and designating it as agriculture. Further with the County Attorney, other than the continuing use of the word "courtesy," I am leaning to and ready to vote to approve this today. I have to say that like Councilmember Kaneshiro said earlier too, that the courtesy works both ways and that we are all really busy. We all cannot read every word of every item every time, but that is why there are seven (7) of us as well. We do the best that we can with the time that we have – there is only twenty-four (24) hours in a day, and we trust each other. That is why decisions are made by a majority rule. I am a little torn, but I am ready to approve this.

Council Chair Rapozo: Thank you. Anyone else? I will just say that I can honestly sit here and say that I have been on that seat, where Councilmember Kaneshiro is sitting, asking for deferrals and being denied. I think to say that we have always done that is not accurate. I accept that because it is the majority that rules and if the majority of the Council is ready to move forward, so be it, that is just the way that this is done. We strive for home rule in various issues whether it is fiscal, zoning, and that is what this is about, this is about home rule. This is about bringing the designation back to the County where it belongs. This is a housekeeping measure. I would not have a problem with a deferral if the deferral was being asked for because we needed more information of the substance of the Bill. The substance of the Bill is very simple. We want to zone the land. There is no other practical...I think Councilmember Yukimura herself said that it is practical to zone this agriculture because it is zoned agriculture at the State level, it is being taxed as agriculture, so substantively, it is the right thing to do. I think that the deferral is being requested because Councilmember Yukimura is looking to find if there is conflict so that Councilmember Kaneshiro can be removed from voting, because there is no other reason. If that is the case, I think we are going down the wrong road. That is not our job. Councilmember Yukimura is correct, we are in charge with enforcing the ethics code, but if there is no ethics violation or complaint, I do not believe that is an ethical violation at this point. If Councilmember Yukimura does, she has every right to file a complaint. She has an obligation to enforce that if she believes in fact that this is an ethical issue. Whether it is an ethical issue or not does not affect the fundamental purpose of the Bill. The Bill is to rezone land. The Bill is not to determine if Councilmember Kaneshiro has a conflict. My suggestion is that we pass this out, get these lands zoned, and if Councilmember Yukimura finds later that there is a conflict and he should have recused himself, then she can take appropriate action. Why are we going to stop a process that is practical, reasonable, housekeeping, and the right thing to do because of an external issue that might be

bugging us, and that is where I think I cannot support a deferral because it is a deferral for the wrong reasons. It is not a deferral because I need more information on the Bill. I need more information on this Bill to determine if Councilmember Kaneshiro should be voting on this matter, and that is not appropriate, in my opinion. I will be supporting the Bill and will let the chips fall where they fall at this point. Councilmember Yukimura.

Councilmember Yukimura: There is no ethical violation unless there are rights that are being conveyed by our action. All I am asking is, and it is about the substance of our action, what rights if any, are being conveyed by our action? I am not making any conclusions about Councilmember Kaneshiro's conflict of interest, I am just asking what are the implications of our actions and only then would we know whether there is a conflict of interest or not. Although, I think there is also an ethics thing that says that at a level of the lands of a corporation being involved, there would be a conflict, but I am not going there. That is something for the Ethics Board to decide. Where reasonable people can disagree about whether there is an ethics violation or not, that is where the Ethic Boards, a third party, rather than any of us who are involved here would be the ones to make that decision. I am just asking for due process because we are committed to enforcing the Charter, we are sworn to enforce the Charter, and making sure that it is upheld and that is all I am asking about. I am not making any conclusions, I am asking the questions so that we can know what we are doing, and we can know whether there is a conflict or not.

Council Chair Rapozo: Thank you. Any further discussion? If not, roll call.

The motion for adoption of Bill No. 2575 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Kagawa, Kaneshiro, Kualii, Yukimura, Rapozo	TOTAL – 6*,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Hooser	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

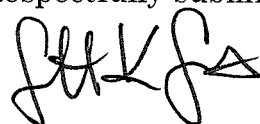
*(*Pursuant to Rule No. 5(b) of the Rules of the Council of County of Kaua'i, Councilmember Yukimura was noted as silent, but shall be recorded as an affirmative for the motion.)*

ADJOURNMENT:

Council Chair Rapozo: That concludes today's agenda. Thank you and have a nice day.

There being no further business, the meeting was adjourned at 2:26 p.m.

Respectfully submitted,



SCOTT K. SATO
Council Services Review Officer